

When Freedom of Conscience Leads to no Other Solutions Than Coercion, Punishment or Exile

A Reflection on the Controversial Right to Selective Conscientious
Objection to Military Service



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Deadline for submission: 31/05/08

Number of words: 20.146 (max. 20.000)

30.05.2008

UNIVERSITY OF OSLO

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1 Introduction

1.1 Overview of the issues

In January 2004, Jeremy Hinzman and his family arrived in Canada and shortly after they filed a claim for refugee status. Hinzman, like many others, left his country of origin to seek sanctuary in Canada, a country he believed would protect him from being forced to act against his conscience or face imprisonment as the price to pay for his convictions. Hinzman was an American soldier who deserted the United States Army because he genuinely believed it was immoral for him to participate in *Operation Iraqi Freedom*, as he considered it unlawful. His conscientious claim was rejected by the army not for lack of sincerity but because Mr. Hinzman was a selective objector as opposed to a pacifist. Unfortunately for him Canada denied his refugee claim.¹

This thesis proposes to analyze some of the reasons why, despite the holding of a genuine conscientious objection to military service, Mr. Hinzman was denied national and international protection.

Conscientious objection to military service dates back centuries to a period when many individuals were imprisoned and some even lost their lives because they preferred punishment to committing what they believed was murder.² Conscientious objection involves the deliberate decision to defy orders and refuse to act against one's convictions. It involves choosing to obey one's own law of conduct than the ruler's law despite the consequences it may entail.

¹ Hinzman v. Canada (Minister of Citizenship and Immigration, 2006 FC 420 (CanLII) ; Jeremy Hinzman et al. v. Canada (Citizenship and Immigration), Federal Appeal Court of Canada, 2007 FCA 171; Application for leave to appeal to the Supreme Court of Canada dismissed on 15 November 2007, Jeremy Hinzman (A.K.A. Jeremy Dean Hinzman), Nga Thi Nguyen and Liam Liem Nguyen Hinzman (A.K.A. Liam Liem Nguye Hinzman) v. Minister of Citizenship and Immigration, 2007 CanLII 50078 (S.C.C.)

² *The New Conscientious Objection, From sacred to secular resistance*, ed. Charles C. Moskos and John Whiteclay Chambers II, Oxford University Press, 1993, page 9.

A variety of terms are used to characterize conscientious objectors to military service; notably the terms universal, selective and absolute. While all three types of objectors base their objections on religious, ethical, philosophical or other profound grounds, a universal conscientious objector is one who is opposed to bear arms or serve in the military in any circumstances (hereinafter “pacifist”), a selective conscientious objector is one who, while not opposed to bearing arms in general refuses to participate in a particular military action or means of warfare (hereinafter “selective objector”) while an absolute objector is one who refuses to perform any services linked to the war efforts, be it of a military, non-combatant or civilian nature.³

The right to conscientious objection to military service derives from the right to freedom of thought, conscience or religion,⁴ a right protected internationally, regionally and domestically⁵. The protection afforded by states to conscientious objectors has evolved overtime. It expanded from protection afforded to traditional peace churches or recognized religions to one protecting individual religious beliefs.⁶ As societies became more secular and diversified, the protection adapted and encompassed beliefs that are based on ethical, moral or other profound grounds.⁷

³ *Idem*, page 5

⁴ Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 35 (1994) paragraph 11; Commission on Human Rights Resolution 2004-35, 19 April 2004, E/CN.4/2004/127; Commission on Human Rights, Civil and Political Rights, including the question of conscientious objection to military service, Report of the Office of the High Commissioner for Human Rights, 16 February 2004, E/CN.4/2004/55.

⁵ Universal Declaration of Human Rights, Resolution 217 (III) adopted on 10 December 1948 (hereinafter “UDHR”); International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, 1996, Article 18 (hereinafter the “ICCPR”); European Convention for the Protection of Human Rights and Fundamental Freedom, 1950, Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, *entered into force* Sept. 3, 1953, *as amended by* Protocols Nos 3, 5, 8, and 11 *which entered into force* on 21 September 1970, 20 December 1971, 1 January 1990, and 1 November 1998 *respectively*, Article 9 (hereinafter “ECHR”); American Convention on Human Rights, 1969, Article 12 (hereinafter “ACHR”); African Charter on Human and Peoples’ Rights, 1981, Article 8 (hereinafter “ACHPR”); Canadian Charter of Rights and Freedoms, Article 2 a); Armenia Constitution, Article 26.

⁶ Footnote 2

⁷ David Zonshein et al. v. Judge-Advocate General, 36 Isr. L. Rev. 1-17, 2002 (hereinafter “the Zonshein case”); Welsh v. United States, 398 US 333, 342 and 343 (1970) (hereinafter “the Welsh case”); United States v. Seeger, 380 U.S. 163 (1965) (hereinafter “the Seeger case”); Gillette v. United States of America, 401 U.S. 437, 460 (1971) (hereinafter “the Gillette case”)

The right to conscientious objection often collides with a state sovereign prerogative of raising its army as a necessary means to fulfill its obligation to protect the nation. Its recognition and scope, therefore, require states to engage in a delicate exercise of finding the balance between the respect of individual rights without risking to compromise national defense or public safety. The end of the cold war and the sophistication of the weaponry of war diminished the need of maintaining large armies and contributed to the abandon of conscription as the suitable means to recruit the necessary manpower to ensure national defense.⁸ However, states still consider the duty of citizens to defend their country against what their democratically elected institutions have defined as the enemy, independently of the legitimacy of this assessment, as part of their social contract, one that needs to be respected in order to prevent anarchy. Therefore, any exception must be strictly limited and confined to the clearest of cases. While it is important for states to prevent abusive and fraudulent claims and while determining the genuineness of the belief may be difficult in many cases, the question still remains as to whether national defense is better protected or served by coercing conscientious objectors, be they universal or selective, rather than recognizing their genuine beliefs.

States often wage war on the premise that their primary motivation for resorting to military action in order to maintain their own security is also grounded in their desire to uphold and defend human dignity and rights against oppression. Consequently, if men and women are expected to take arms, put their lives on the line or worse still, be forced to take the lives of others in order to ensure human dignity for all, then, they should have the assurance that their country is a steadfast protector of all fundamental rights. They should also have the assurance that their objections will prevail against state interests if and when they develop a sincere conscientious objection to participating in military actions.

Despite the fact that the number of states resorting to conscription has diminished in the last 10 years and that the rights of pacifists have gained wider recognition worldwide, pacifists and/or selective objectors in many countries still have little hope of being either exempted from conscription or, after having enrolled voluntarily in the army, of being authorized to refuse deployment in a particular war and have but few options, namely,

⁸ George Q. Flynn, *Conscription and Democracy*, Greenwood Press, London, 2002.

coercion into acting against their belief, punishment or desertion. As they are unable to receive protection from their own countries, they often seek international protection. However, because decision-makers do not perceive the right to conscientious objection as one protected by binding instruments the objector's fear of punishment for his refusal to serve is perceived as a fear of prosecution and not a fear of persecution and; therefore, international protection is often denied.

1.2 Hypotheses

The more decision-makers focus on the impact the objectors' perception of their participation in a military action on their conscience and not on the scope of their objection, universal or selective, the greater the objectors' chances of obtaining national protection. The more decision-makers consider the holder of the right as central to the issue as opposed to the object of the right, the nature of the military action *per se*, the lesser the need to distinguish between pacifists and selective objectors and the greater the chances of obtaining national and international protection. Moreover, as more states realize that denial of objectors' right constitutes a violation of their basic human rights in a fundamental way, the greater the objectors' chances of obtaining international protection.

This thesis proposes to demonstrate that because the right to conscientious objection to military service whether it is universal or selective – derives from the right to freedom of thought, conscience or religion which is internationally and, in most states, constitutionally protected, failure to recognize it under the threat of penalty constitutes a violation by the state of its international and national obligations to uphold and protect the fundamental rights of its citizens.

Further, considering that states can enact legislation for alternative service *in lieu* of military service to enable conscientious objectors to fulfill their citizens' duties, any attempt to justify the denial of the right as a legitimate limitation pursuant to international, regional or constitutional law would fall short of being the minimal means required to ensure national security and may be ruled as disproportionate and unjustified.

Lastly, denying the right to conscientious objection threatens the objector's basic right of freedom of thought, conscience or religion in a fundamental way whereby the objector is coerced either to kill against his conscience or is punished for his refusal to obey and; therefore, this treatment can be considered as persecution and trigger international protection.

1.3 Methodology

In Part II, I give a brief introduction and discuss the fundamental nature of the right to freedom of thought, conscience or religion from which the right to conscientious objection derives. It also describes the applicable international, regional and national laws and principles on the right to conscientious objection existence and its scope. Under the heading "Regional perspective, I discuss the European and Americas jurisprudence and/or legislations. In Part III, I discuss three main issues undermining the exercise of the rights of conscripts and voluntary soldiers and the arguments advanced by states to deny their rights or restrict it to universal objectors. In Part IV, I discuss the possible impact the recognition of the right to conscientious objection on some aspects of refugee claims. Finally, in Part V, I briefly discuss my perceptions of the problem and propose possible solutions.

1.4 Analytical approach

The approach adopted for this thesis favours analyzing the law in its present context to assist in finding a suitable interpretation of the scope of the protection of the right to conscientious objection in light of the development of states practice and the goals and objectives shared by states when enacting international, regional and domestic legislations on the protection of human rights and freedoms. I take account of the fact that human rights instruments are living instruments. The complexity of the mechanisms that lead to their enactment and amendment requires states to employ a language that allows for a dynamic interpretation of case law and state practices.

For my research I have consulted many sources, including human rights instruments, conventions, declarations and protocols, case law, state reports, general

comments of treaty bodies, guidelines from specialized agencies as well as law reviews, books and journals to form my arguments. I have described, based on binding instruments, the extent to which states ought to recognize and implement the right to conscientious objection and if they actually comply with their obligations. Also, I have highlighted and discussed some of the contradictions and shortcomings of the discourse of states on dealing with the issue of conscientious objectors. This approach may be perceived as defining the *lege ferenda* as opposed to the *lege lata*, but I believe that my conclusions do reflect a reasonable and faithful interpretation of the law considering the goals human rights instruments are striving to achieve. I have not sought to apply any particular legal scientific method in this thesis because the nature of the subject is such that no single method would seem to fit very well. If anything, the line of arguments and the reasoning throughout this study could most appropriately be characterized as a hermeneutic approach because of the way in which I combine the legal texts with "reasonable judgement" and "practical reasoning" in my interpretation and my solutions. But I cannot claim to apply a hermeneutical legal approach strictly or consistently.⁹

⁹ Neil McCormick, *Contemporary Legal Philosophy: The Rediscovery of Practical Reason*, Oxford, Clarendon Press, 1983; Joseph Raz, *The Morality of Freedom*, Oxford University Press, 1986.

2 Recognition and Scope of the Right to Conscientious Objection

2.1 Introduction

The Preamble of the Universal Declaration of Human Rights states:

“Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.”¹⁰

This represents the will and hope of the signatories. Member States pledged to respect, observe and promote the dignity and worth of the human person in order to achieve the common goal of ensuring that all human beings without distinction enjoy the rights and freedoms enshrined in the declaration.

While conscientious objection to military service is not expressly stated as right in international or regional human rights instruments, it derives from the right to freedom of thought, conscience and religion and is a legitimate manifestation of such right¹¹ “inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief.”¹²

Whereas some would argue that the right to conscientious objection is not recognized as such, but rather “an emerging human rights norm”¹³ [Nickel], the existence of a right can nonetheless be justified if it derives from one that already is accepted –

¹⁰ Footnote 5; Annex A.

¹¹ Footnotes 4 and 5, E/CN.4/2004/55.

¹² Footnote 4.

¹³ Karen Musalo, Conscientious Objection as a basis for Refugee Status: Protection for the Fundamental Right of Freedom of Thought, Conscience and Religion, *Refugee Survey Quarterly*, Vol. 26, Issue 2, page 70.

freedom of conscience – or if the implementation of the former requires the implementation of the latter. As Nickel concluded, the more essential the second is to the implementation of the first the stronger the justification of the second one will be.¹⁴ If one is conscientiously opposed to all forms of violence but is coerced to kill, one is deprived of one's freedom of conscience. Therefore, in order to understand the right to conscientious objection, one must first understand the importance and place the right to the freedom of thought, conscience and religion occupied in the general scheme of human rights.

2.1.1 Freedom of thought, conscience and religion

Freedom of thought, conscience and religion ("freedom of conscience") is enshrined in many international, regional and national human rights instruments.¹⁵ Article 18 of the International Covenant on Civil and Political Civil Rights (hereinafter "ICCPR") reads as follows:

1. Everyone shall have the right to freedom of thought, conscience and religion....
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. (...) ¹⁶

While regional instruments such as the ECHR, the ACHR and the ACHPR use different terms, they all have provisions on the protection of the fundamental freedoms outlined above.¹⁷

¹⁴ James W. Nickel, *Making Sense of Human Rights*, Second Edition, Blackwell Publishing, 2007, page 87.

¹⁵ Footnote 5.

¹⁶ *Idem.*

¹⁷ *Idem.*

Freedom of conscience is part of the identity of each individual and is one of the essential components that guide us in making difficult decisions and choices. Our values and principles are acquired through a process of “education and socialization”.¹⁸ Our conscience is sculpted by values drawn from a plurality of sources and is influenced by our interactions with family members, friends, teachers or spiritual leaders or personal quest for the truth and answers to life’s mysteries, and the lessons we learn from our personal and professional experiences. These values and principles can also be strongly influenced by the development of international and human rights laws and by our adoption of the pledge by nations to promote, protect and respect human values, norms, rights and freedoms.¹⁹ Freedom of conscience is ‘far-reaching and profound’.²⁰ Its fundamental nature is also reflected in the fact that it is a non-derogable right that is protected in both peacetime and in time of a state emergency that poses a threat to the nation.²¹

The European Court of Human Right (“ECtHR”) has held that:

« As enshrined in Article 9 (art. 9), freedom of thought, conscience and religion is one of the foundations of a "democratic society" within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it. »²²

The right to freedom of thought, conscience or beliefs is expressly provided for in the constitutions of at least 148 countries while the right to freedom of religion or faith is mentioned in the constitutions of another 29 countries.²³ This means that more than 90% of the countries in the world recognize the right to freedom of thought, conscience, belief

¹⁸ Asbjørn Eide and Chama Mubango-Chipoya, *Conscientious Objection to Military Service*, Report prepared pursuant resolution 14 (XXXIV and 1982/30 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Sales No. E.85.XIV, paragraph 25.

¹⁹ *Idem*, paragraphs 21-25.

²⁰ Footnote 4, HRC general comment No. 22.

²¹ Footnote 5, ICCPR Article 4 and ECHR, Article 15.

²² *Kokkinakis v. Greece*, ECtHR, Application No. 14307/88, Judgment, 25 May 1993, paragraph 31.

²³ Annex B.

or religion in their constitutions. In one of its rulings, the Supreme Court of Canada held that:

“What unites enunciated freedoms in the American First Amendment, s. 2(a) of the *Charter* and in the provisions of other human rights documents in which they are associated is the notion of the centrality of individual conscience and the inappropriateness of governmental intervention to compel or to constrain its manifestation. In *Hunter v. Southam Inc.*, *supra*, the purpose of the *Charter* was identified, at p. 155, as ‘the unremitting protection of individual rights and liberties’. It is easy to see the relationship between respect for individual conscience and the valuation of human dignity that motivates such unremitting protection.”²⁴

Our conscience dictates the choices we make regardless of their consequences. Once inscribed in our moral fiber, our principles act as our compass thereby ensuring the righteousness of our actions and our self-respect and human dignity.

Freedom of conscience evolves in two different spheres: an inner sphere where no interference is allowed, and an outer sphere where words, actions or omissions are expressed. To manifest one’s belief is to make it visible to others. It entails giving clear signs of one’s profound convictions and acting in accordance with the rules that guide one’s life. In order to give effect to inner freedom, protection must be given when it is manifested in the outer sphere of society. If one has the freedom to hold the profound conviction that life is sacred but is coerced by his government to kill, one thus has no effective right to freedom of conscience. Some would argue that the inner right is not affected because such a person remains free to act in accordance with his own convictions and to assume the consequences of his defiance of the norms. But for my part, I would argue that a society which takes pride in the value of honoring human rights is not one that requires martyrdom as the price for expressing one’s convictions. A democratic society must carefully weigh all the essential factors before interfering with individual rights and

²⁴ *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295, paragraph 121; Footnote 7, the *Seeger case* where the USA Supreme Court stated “All our history gives confirmation to the view that liberty of conscience has a moral and social value which makes it worthy of preservation at the hands of the state. So deep in its significance and vital, indeed, is it to the integrity of man's moral and spiritual nature that nothing short of the self-preservation of the state should warrant its violation; and it may well be questioned whether the state which preserves its life by a settled policy of violation of the conscience of the individual will not in fact ultimately lose it by the process.” Stone, *The Conscientious Objector*, 21 Col. Univ. Q. 253, 269 (1919).”

freedoms, and must limit such interference to the minimum necessary to achieve a legitimate aim. As stated by the Supreme Court of Canada:

“Freedom can primarily be characterized by the absence of coercion or constraint. If a person is compelled by the state or the will of another to a course of action or inaction which he would not otherwise have chosen, he is not acting of his own volition and he cannot be said to be truly free [...] Freedom in a broad sense embraces both the absence of coercion and constraint, and the right to manifest beliefs and practices. Freedom means that, subject to such limitations as are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others, no one is to be forced to act in a way contrary to his beliefs or his conscience.”²⁵

2.1.2 The Right to Conscientious Objection to Military Service

2.1.2.1 Introduction

When describing the state of the law and the jurisprudence on the issue of conscientious objections, it is necessary to divide the presentation in two sections: one relating to pacifists and another relating to the protection for selective objectors or lack thereof.

Furthermore, a research on the issue must briefly examine the power of states to raise armies and the basis upon which citizens comply in providing states with manpower and financial support for its military purposes.²⁶ Wars and armies have existed for hundreds of years, but what is fascinating is the power of rulers to instill in their citizens the sentiment that military service is a citizen’s honorable duty. Social contract theorists would argue that when individuals join their powers to ensure their preservation, therefore forming a State, they each agree to contribute to the means necessary to achieve the ends, and while the force of all ensures the protection of each individual life all must be ready to lose their lives for the sake of all.²⁷ The obligation of a state to protect its citizens imposes

²⁵ Footnote 24, *R. v. Big M Drug Mart Ltd*, paragraph 95.

²⁶ Margaret Levi, *Consent, Dissent, and Patriotism*, Cambridge University Press, 1997.

²⁷ Jean Jacques Rousseau, *The Social Contract or Principles of Political Rights*, 1762, translated by G. D. H. Cole, public domain Rendered into HTML and text by Jon Roland of the Constitution Society, Book I, Chapter 6. <http://www.constitution.org/jjr/socon.htm>.

a corollary duty upon citizens to participate in the collective defense of the state. In the *Selective Draft Law Cases*, Chief Justice White of the United States Supreme Court said “[t]he very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in case of need....”²⁸ In modern times, the duty of citizens to defend their country is often provided for in the constitution.²⁹ The corollary nature of the citizens’ duty has also been highlighted in some regional human rights instruments.³⁰

Military service can be voluntary or mandatory. Mandatory military service has been at the heart of worldwide debates on the issue of conscientious objection as it relates to two important but conflicting interests: the collective interest of ensuring national defense and the interest of protecting fundamental individual rights when coercion to engage in military service infringes upon the fundamental rights of the conscript. However, even when it is dependent upon the voluntary participation of its members, its non-recognition still represents a real problem for soldiers who develop conscientious objection after induction. The main issue of contention is whether the need to ensure national defense can only be fulfilled through military service or whether other types of service can contribute to safeguarding collective interest and also fulfill citizens’ duties.

When we look at the recent history of conscription it appears that in many countries laws or regulations on compulsory service often included and still includes a variety of mechanisms such as commutation, deferment, limited exemptions or alternative service of non-combatant nature.³¹ Therefore, the existence of such measures indicates that it is possible for citizens and necessary in some cases to be exempted from military service in order to fulfill other essential services of equal benefit for the collectivity. One of the mechanisms adopted by states is the possibility for alternative service when serving in a

²⁸ *Arver v. United States, Grahl v. Same, Wangerin v. Same, Kramer v. Same, Graubard v. Same*, 245 U.S. 366, at page 378; George Q. Flynn, *Conscription and Democracy*, Greenwood Press, London, 2002 page 3 citing Jean Jacques Rousseau; Emmerich de Vattel, *Law of Nations*, 1758, Book III, Chapter 2, Articles 7 and 8, <http://www.lonang.com/exlibris/vattel/vatt-302.htm>.

²⁹ Albania’s Constitution, Argentina’s Constitution, Estonia’s Constitution and Iran’s Constitution.

³⁰ Footnote 5, the ACHPR article 29 (5), the American Declaration of the Rights and Duties of Man, Article XXXIV, and the ACHR.

³¹ Israel Defense Service Law (Consolidated Version), 5746-1986
<http://www.jewishvirtuallibrary.org/jsourc/Politics/defenselaw.html>

military capacity would conflict with the conscript conscience. Because of its substitute nature to military service, once an individual is found to be a conscientious objector his obligation to perform alternative service becomes his duty and his refusal to comply may lead, depending on the circumstances, to sanctions or punishment. Notwithstanding if conscription is considered as a citizens' duty or as a necessary interference imposing a heavy burden upon its citizens³² the right of a state to ensure national defense is not incompatible with the recognition of the right to conscientious objection.

As described below the recognition of the right to conscientious objection has been articulated for and widely honored in respect of pacifists' claim. However, in many countries conscripts or volunteer soldiers, who are proud to defend their country, find themselves bound to object to serve in specific military actions based on profound moral convictions that their participation in such actions would be immoral. They refuse to aid and abet, in a wider sense than the issue of criminal responsibility, in military actions ordered by their government, actions they genuinely believe are illegal. This chapter proposes to analyze the present legal status of both pacifists and selective objectors at the international, regional and domestic level. Often selective objectors are accused of being non-patriotic or cowards afraid of participating in difficult and dangerous military actions. These accusations ignore the fact that standing for one's conviction no matter the consequences takes a tremendous amount of courage and integrity.

2.1.2.2 Recognition and scope of the right to conscientious objection to military service

2.1.2.2.1 Pacifists

2.1.2.2.1.1 International perspective

In the early seventies the Human Rights Commission adopted several resolutions requesting studies and reports on the issue of conscientious objection.³³ On 10 September 1982, the Sub-Commission on Prevention of Discrimination and Protection of

³² Footnote 8, page 3.

³³ Resolution 11 B (XXVII) of 19 March 1971, Resolution 1 A (XXXII) of 11 February 1976 and Resolution 40 (XXXVII) of 12 March 1981; Footnote 17.

Minorities³⁴ required the confection of a report to develop relevant principles in view of recognizing, *inter alia*, the right of “all persons to refuse service in military or police forces on grounds of conscience or deeply held personal convictions. In 1985, the final report was published and recommended the adoption by states of legislations recognizing and implementing the right to refuse to perform military service “for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian or similar motives.” As for the scope of the protection it recommended, *inter alia*, that as a minimum such protection be afforded to pacifists.³⁵

In 1987, the Human Rights Commission adopted its first resolution on conscientious objection to military service, followed shortly thereafter, in 1989, by a second one, which called upon States to recognize the right to conscientious objection as a legitimate exercise of the right to freedom of thought, conscience and religion.³⁶ Over time, numerous resolutions followed inviting states to enact such legislations and to provide for proper implementation mechanisms, including provisions on alternative service of a non-punitive nature.³⁷ Moreover, under the responsibility of the High Commissioner for Human Rights, a series of reports analyzing and enumerating the best practices of states in this field were prepared. These reports addressed fundamental sub-issues such as, the legal basis for individual countries to recognize the right to conscientious objection to military service, the scope and limitations of such legislation, the need for impartial and independent decision-processes and regulations on the availability of alternative service to

³⁴ Renamed in 1999 the Sub-Commission on the Promotion and Protection of Human Rights.

³⁵ Footnote 18, paragraph 153.

³⁶ Commission on Human Rights Resolutions, E/CN.4/RES/1987/46 and E/CN.4/RES/1989/59; Many special rapporteurs in their reports called upon states to implement and respect the right of conscientious objectors., Report of the Special Rapporteur on freedom of religion or belief to the Commission on Human Rights at its 59th session, E/CN.4/2003/66; Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the Commission on Human Rights at its fifth-eight session (Country situations), E/CN.4/2002/75/Add.2, para 231, 239 and 266; See also the article of Lucie Viersma from the Office of the High Commissioner for Human Rights for the International Conference on “Conscientious Objection to Military Service: 10-14 March 2003, United Nations, Recognition of the Right to Conscientious Objection and Practices of Alternatives Services.

³⁷ Commission on Human Rights Resolutions E/CN.4/RES/1993/84, E/CN.4/RES/1995/83, E/CN.4/RES/1998/77, E/CN.4/2000/34, E/CN.4/2002/45, E/CN.4/RES/2004/35.

ensure that the right did not remain *lettre morte* due to lack of implementation mechanisms.³⁸

International human rights instruments evolve with time, and states as well as treaty bodies and other international, regional and national institutions interpret the law in the light of changing practices. Many treaty bodies have stated that human rights treaties and laws are “living instruments” and that the rights protected “should be applied in context and in the light of present-day conditions.”³⁹ This can be exemplified by the evolution of the interpretation of the Human Rights Committee (“the HRC”) of the protection of the right to conscientious objection. In 1985, in *L.T.K v. Finland*, the Committee declined to exercise jurisdiction and considered that the right to conscientious objection was not protected under the Covenant. Several years later, in *J.P v. Canada*, while declining to consider the right to refuse to pay taxes as being protected by the Covenant, it nevertheless held in an *obiter dictum*, that Article 18 of the Covenant “...certainly protects the right to hold, express and disseminate opinions and convictions, *including conscientious objection to military activities and expenditures*, ...”⁴⁰ Then in 1993, the HRC adopted its General Comment No.22 acknowledging that the right to conscientious objection was protected by Article 18 of the ICCPR in as much as the use of deadly force may conflict with profound convictions.⁴¹

Still, it was not until February 2007 that the HRC expressly recognized the right to conscientious objection for the first time. In *Mr. Yeo-Bum Yoon and Mr. Myung-Jin Choi v. Republic of Korea*, it found that the refusal by the authors, two nationals of the Republic of Korea who were Jehovah’s Witnesses, to be drafted in the military was based on sincere and genuine religious beliefs and viewed their convictions and sentencing as a breach of

³⁸ Commission on Human Rights Resolution 1991/65 of 6 March 1991; The Role of Youth in the Promotion and Protection of Human Rights, including the Question of Conscientious Objection to Military Service, Report of the Secretary-General prepared pursuant to Commission resolution 1991/65, E/CN.4/1985/68 and Add. 1-3; Footnote 5, E/CN.4/2004/55; Commission on Human Rights, Sixty-second session Item 11 (g) of the provisional agenda, Civil and Political Rights, including the Question of Conscientious Objection to Military Service, Analytical report of the Office of the High Commissioner for Human Rights on the best practices in relations to conscientious objection to military service, E/CN.4/2006/51.

³⁹ *Roger Judge v. Canada*, Communication No. 829/1998, CCPR/C/78/D/829/1998, 20 October 2003, paragraph 10.3; Committee on the Rights of the Child, CRC/C/GC/8, 2 March 2007, paragraph 20.

⁴⁰ *J.P. v. Canada*, Communication No. 446/1991, U.N. Doc. CCPR/C/43/D/446/1991, 8 November 1981, paragraph 4.2.

⁴¹ Footnote 4.

their right to manifest their religion. Military service in the Republic of Korea is mandatory and no exemption for conscientious objectors is authorized. In their submissions before the Committee, the Republic of Korea justified its refusal to grant exemption based on the particular circumstances that prevailed in the country and as for the impairment, it contended that its recognition of the right to conscientious objection would violate the equality principle, harm social unity⁴² and national security and facilitate insincere claims.⁴³ After considering all the arguments put forward by the parties, the Committee took the view that the arguments of the Republic of Korea were not persuasive in reference to Article 18 (3) of the Covenant despite the particular circumstances that prevailed at the relevant time and that the interference was neither justified nor reasonable.⁴⁴

While the HRC's views are not binding for states parties, they represent a valuable source for the interpretation of the scope of the normative rights enunciated in the Covenant. Furthermore, being the institution entrusted by state parties with the duty of monitoring and overseeing the progress in the implementation of the protected rights and freedoms⁴⁵ and with receiving individual complaints on alleged violations by state parties,⁴⁶ its views, general comments and conclusions on the interpretation of the normative rights ought to be considered with the highest degree of deference.

An overview of the scope of state recognition of both freedom of conscience and the right to conscientiously object to military service⁴⁷ may help dispel the doubts expressed by Committee member Wedgwood when questioning if the majority's finding was really representative of the will of the state parties either at the time of the adoption of the Covenant or at the present time.⁴⁸

⁴² This argument was also considered in the *Zonshein* case, Footnote 7.

⁴³ Footnote 7.

⁴⁴ *Mr. Yeo-Bum Yoon and Mr. Myung-Jin Choi v Republic of Korea*, CCPR/C/88/D/1321-1322/2004, 23 January 2007, paragraph 8.4.

⁴⁵ Footnote 5, ICCPR, article 40 (4).

⁴⁶ Optional Protocol to the International Covenant on Civil and Political Rights (hereinafter "the Optional Protocol", G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 59, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 302, entered into force March 23, 1976, Article 1; Annex A.

⁴⁷ Article 38 of Statute of the International Court of Justice. Annex C.

⁴⁸ Footnote 44, Dissenting opinion by Committee member Ms. Ruth Wedgwood.

2.1.2.2.1.2 National Perspective

One hundred and ninety-two countries are member-states of the United Nations and are bound by its Charter, which underlines the need to promote and encourage “respect for human rights and for fundamental freedoms for all without distinction....”⁴⁹ One hundred and sixty-one member states are state parties to the ICCPR and are required “... to respect and to ensure to all individuals ...the rights recognized in the present Covenant, without distinction of any kind, such as race, religion, political or other opinion ...or other status.”⁵⁰ As stated earlier, 90% of the countries in the world recognize the right to freedom of thought, conscience, belief or religion in their constitutions or bills of rights. In nearly 70% of the countries, conscription has never existed, has been abolished or suspended or, if still enforced, provisions for alternative service have been enacted.⁵¹ While many issues still need to be addressed, – as illustrated in the concluding observations of the HRC following state reports where it either deplores the absence in some countries of legal provisions recognizing the right to conscientious objection⁵² or invites and recommends to others to amend domestic laws to ensure compatibility with the provisions of the Covenant,⁵³ – a world overview indicates that, as a general practice, states have opted for professional and voluntary armies as a means to ensure national defense and that some, which have opted for conscription, acknowledge the rights of conscientious objectors.

Having reached this conclusion, I must nevertheless acknowledge that in at least forty-seven (47) of the State Parties to the ICCPR, conscription is still enforced while conscientious objection is not recognized. In many other states, the implementation mechanisms are insufficient, if not simply inadequate. Therefore, while I strongly advocate protection of the right to conscientious objection through international human rights instruments, I question the reluctance of some states to consider the protection of

⁴⁹ Article 1 (3) of the United Nations Charter ; Annex B.

⁵⁰ Footnote 5, ICCPR, Article 2 (1); Annex B.

⁵¹ Annexes B and D: 96 countries have never had, abolished or suspended conscription while an additional 39 provide for alternative service.

⁵² Armenia, ICCPR, A/54/40 vol. I (1999) 29 at paras. 114 and 11; Azerbaijan, ICCPR, A/57/40 vol. I (2002) 47 at para. 77(21); Belarus, ICCPR, A/53/40 vol. I (1998) 26 at para. 152; Colombia, ICCPR, A/59/40 vol. I (2004) 35 at para. 67(17).

⁵³ Cyprus, ICCPR, A/49/40 vol. I (1994) 53 at paras. 321 and 330; Estonia, ICCPR, A/58/40 vol. I (2003) 41 at para. 79(15); Finland, ICCPR, A/60/40 vol. I (2004) 22 at para. 81(14); France, ICCPR, A/52/40 vol. I (1997) 62 at para. 406; Georgia, ICCPR, A/57/40 vol. I (2002) 53 at para 78(18) and many others.

conscientious objectors as a right as opposed to a privilege. This is further exacerbated by the ambivalence of some states, which have opted for volunteer armies, and consider conscientious objection to be a non-issue. However, it is important to bear in mind that “[...] legislative imperfections in the definition of human rights and freedoms and the lack of mechanisms for implementation, do not constitute a reason for denying their existence and the need for their legal protection.”⁵⁴

2.1.2.2.1.3 Regional Perspective

2.1.2.2.1.3.1 Council of Europe

In both its resolution 337 in 1967 and its latest recommendation in 2001 (Recommendation 1518), the Council of Europe’s Parliamentary Assembly has consistently recognized the right to conscientious objection.⁵⁵ In April 1987, the Committee of Ministers adopted its Recommendation No. R (87) 8 on the basic principle and procedure in regard to the recognition and implementation of the right to conscientious objection and called upon states to enact domestic legislations in this respect.⁵⁶ While such documents are not binding for member states, they nevertheless provide an “authoritative interpretation”⁵⁷ and a clear acknowledgment of state practices in moving towards unanimous recognition and standardized implementation of the right to conscientious objection. Out of the 47 states of the Council of Europe, 29 still maintain conscription; only one is yet to pass legislation recognizing the right and one is yet to enact legislation to implement it despite having granted it constitutional protection.⁵⁸

⁵⁴ Dissenting opinion of Judge Tanaka, South West Africa Cases (second phase), Report of Judgments, Advisory Opinions and Orders of the International Court of Justice, 1966, pages 284-296 extract reproduced in Basic Document on Human Rights, Fifth Edition, Ian Brownlie and Guy S. Goodwin-Gill, Oxford University Press, 2006, pages 1091 & 1092.

⁵⁵ Parliamentary Assembly of the Council of Europe, Recommendation 1518 (2001), Doc. 8809, Adopted 23 May 2001.

⁵⁶ Committee of Ministers of the Council of Europe, Recommendation No. R(87) 8 of 9 april 1987 regarding Conscientious Objection to Compulsary Military Service.

⁵⁷ P. van Dijk, G.J.H. van Hoof, *Theory and Practice of the European Convention on Human Rights*, (2d ed. 1990) at 399.

⁵⁸ Annexes C, D and E.

In 2006, in Recommendation 1742 the Parliamentary Assembly proposed to issue guidelines on the rights of members of the armed forces. The Recommendation acknowledges that, unless it is absolutely necessary due to the conditions of service, soldiers should not be deprived of their civil and political rights, including freedom of conscience and the right to apply for conscientious objector's status before or after induction. It also acknowledged the importance of respecting the human rights of members of the armed forces in ensuring that they will, in turn, respect the rights and freedoms of others in accomplishing their mandate.⁵⁹

The case law of the European Commission of Human Rights had consistently refused to recognize the right to conscientious objection as one protected under the Convention, preferring to defer to each state on the authority to legislate independently on the issue.⁶⁰ The reasoning adopted by Commission's was that Article 9 of ECHR was to be interpreted in conjunction with Article 4(3)(b), which proscribes forced or compulsory labour and whose wording appeared to leave the right to conscientious objection to the sovereign discretionary power of states. It is presumed that this interpretation was one of the reasons why in Recommendation 1518, the Parliamentary Assembly suggested amending both articles to include the right to conscientious objection. However, the Committee of Ministers considered that strengthening its previous recommendation was a better way to achieve its objective.⁶¹ However, in December 2006 in a recent decision on admissibility, the ECtHR considered the applicant's communication alleging a violation of his fundamental rights after being convicted and sentenced to 30 months for refusing to serve in the military based on conscientious beliefs as raising important issues. The applicant argued that pursuant to Recommendation 1518 and the general practice of states, the Court should consider his conviction as a violation of his fundamental right to freedom of conscience.⁶² It is hoped that when ruling on the merits of the case, the ECtHR, will

⁵⁹ Parliamentary Assembly of the Council of Europe, Resolution 1742 (2006), Doc. 1086, 1 Adopted 11 April 2006.

⁶⁰ *Grandrath v. Federal Republic of Germany*, Application No. 2299/64; *Johansen v. Norway*, Application No. 10600/83.

⁶¹ Decision on the reply from the Committee of Ministers adopted at the 785th meeting of the Ministers' Deputies (26-27 February 2002, doc. 9379, 1 March 2002).

⁶² *Vahan Bayatyan v. Armenia*, Application no.23459/03, ECtHR, 12 December 2006, p.12.

adopt a dynamic interpretation of the Convention reflecting the general practices of states, as did the HRC,⁶³ and will depart from the Commission's previous findings and recognize conscientious objection as a legitimate manifestation of the right to freedom of conscience.⁶⁴

2.1.2.2.1.3.2 The European Parliament

The European Parliament has adopted various resolutions on the issue of the right to freedom of thought, conscience and religion as well as on the specific issue of conscientious objection.⁶⁵ Furthermore, Article 10 of the Charter of Fundamental Rights of the European Union, adopted in 2000, expressly provides for the right to conscientious objection and leaves to national authorities the duty to enact national laws for its implementation.⁶⁶ Out of the twenty-seven member states of the European Union, fifteen maintain conscription and all recognize the right of conscripts to conscientious objection.⁶⁷ Article 52 provides that insofar as the Charter contains rights which are also protected by the ECHR, their meaning and scope "shall be the same as those laid down by the said Convention." It will therefore be interesting to observe developments in the ECtHR's interpretation of the right to conscientious objection and the influence the express inclusion of the right in the Charter and the general practice of states will have on the interpretation to be adopted in the future.⁶⁸

⁶³ Footnote 44, paragraph 8.2 (emphasize added) "... article 8, paragraph 3, of the Covenant excludes from the scope of "forced or compulsory labour", which is stated "... *article 8 of the Covenant itself neither recognizes nor excludes a right of conscientious objection.*"; Footnote 17, paragraph 43.

⁶⁴ *Mamatkulov and Askarov v. Turkey*, Applications Nos. 46827/99 and 46951/99, Judgment, 4 February 2005; Article 31 (3) Vienna Convention.

⁶⁵ European Parliament resolution of 7 February 1983 on conscientious objection; European Parliament resolution of 13 October 1989 on conscientious objection and alternative civilian service.

⁶⁶ Charter of Fundamental Rights of the European Union, 18 December 2000, (2000/C 364/01), Article 10: "1. Everyone has the right to freedom of thought, conscience and religion....2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right."

⁶⁷ Annexes C and D.

⁶⁸ Article 52 (3) of the Charter of Fundamental Rights of the European Union; text of the explanations relating to the complete text of the Charter as set out in CHARTE 4487/00 CONVENT 50, http://www.europarl.europa.eu/charter/pdf/04473_en.pdf.

2.1.2.2.1.3.3 The Organization for Security and Cooperation in Europe

In 1990, the 35 participants in the Second Conference on the Human Dimension of the Conference on Security and Cooperation in Europe took note of the recognition by the Human Right Commission of the right to conscientious objection and agreed to consider enacting legislative provisions for its recognition and implementation.⁶⁹ Since then the Organization's membership has increased to 56 state participants, of which 34 maintain conscription while 30 recognize the right of conscript to conscientious objection.⁷⁰

2.1.2.2.1.3.4 The Organization of American States

Freedom of thought, conscience and religion is protected under Article 12 of the American Convention on Human Rights. In a 2005 decision, the Inter-American Commission on Human Rights ("IACHR") interpreted Article 12 in light of Article 6(3)(b)⁷¹ which proscribes forced or compulsory labor and adopted a similar interpretation as the European Commission; it declined to recognize the right to conscientious objection as being protected under the Convention.⁷² However in a departure from previous rulings, the IACHR found recent petitions alleging violations of conscientious objectors' rights admissible as raising serious issues of concerns. In one of the cases, a friendly settlement between the parties was reached where the Government of Bolivia agreed to introduce the right to conscientious objection in its legislation.⁷³ However, as indicated in the 2007 Commission Annual Report, the Government is yet to comply with its obligations under the friendly agreement.⁷⁴ In the other one, the case is still pending.⁷⁵

⁶⁹ Document of the Copenhagen Meeting, Conference on Security and Cooperation in Europe, Second Conference on the Human Dimension of the CSE, Copenhagen, 5 June – 29 July 1990 at paragraph 18.

⁷⁰ Annexes C and D

⁷¹ Almost identical to article 9 of the ECHR.

⁷² *Cristián Daniel Sahli Vera et al. v. Chile*, Case 12.219, Report No. 43/05, Inter-Am. C.H.R., OEA/Ser.L/V/II.124 Doc. 5 (2005) paragraphs 83 and 96.

⁷³ *Alfredo Bustos v. Bolivia*, Case 14/04, Report 97/05, 27 October 2005, Friendly Settlement, paragraph 16 Agreement 1 d).

⁷⁴ Annual Report of the IACHR 2007, paragraph 86, Annual Report of the IACHR 2007, paragraph 86, <http://www.cidh.org/annualrep/2007eng/Chap.3i.htm>

⁷⁵ *Alfredo Bustos v. Bolivia*, Case 14/04, Report No. 52/04, 27 October 2005, FInter-Am. C.H.R., OEA/Ser.L/V/II.122 Doc. 5 rev. 1 at 147 (2004); *Xavier Alejandro Leon Vega v. Ecuador*, Case 278/02, Report No. 22/06, 2 March 2006, paragraph 32.

It is noteworthy that twenty-four of the thirty-five member states of the Organization of American States are members of the American Convention of Human Rights of which fourteen have either suspended or abolished conscription while an additional four recognize conscripts' the right to conscientious objection; this represent 75% of the member states.⁷⁶

2.1.2.2.2 Selective Objectors

2.1.2.2.2.1 International Perspective

Selective objection, whereby the objector is not opposed to bearing arms in general but refuses to participate in a particular military action or means of warfare, is a manifestation of the right to freedom of conscience and in this sense the principles and comments expressed above in regard to pacifists should apply *mutadis mutandis*.

On 20 December 1978, the United Nations General Assembly adopted Resolution 33/165.⁷⁷ This Resolution was not binding on states, but it was one of the clearest examples of recognition of the right to conscientious objection and, in particular, the right to selective objection.⁷⁸ The Resolution urged states to recognize the right of a person who is not opposed to bearing arms or to serving in the military as a whole, to refuse to enforce military actions that were contrary to international law, in this particular case *apartheid*. Secondly, it underlined the necessity for states to grant asylum applications from people who flee their countries because of their refusal to participate in such military actions.

In 1985, the final experts' report recommending the adoption by states of legislations recognizing the right to refuse to perform military service for reasons of conscience also recommended that the protection be afforded to selective objectors who refuse to participate in the enforcement of apartheid, in the illegal occupation of a foreign territory, in actions amounting or approaching genocide, in military actions which may

⁷⁶ Annexes C, D and E.

⁷⁷ General Assembly Resolution on "Status of persons refusing service in military or police forces used to enforce apartheid", Resolution 33/165, 20 December 1978, A/RES/33/165.; Footnote 36, Resolution 1998/77, paragraph 7, E/CN.4/RES/1998/77.

⁷⁸ Footnote 18, paragraph 68.

involve gross violations of human rights or where the objector considered that the armed forces he belonged to may use weapons of mass destruction or means of warfare contrary to international norms.⁷⁹

2.1.2.2.2.2 Regional Perspective

To our knowledge no international treaty bodies or regional human rights courts have yet expressed views, general comments, observations or ruled directly on the right of selection objectors. However, considering that selective objection is based on religious, moral, ethical or other profound grounds and that the use of deadly force in a particular war may be as much in conflict with the profound convictions of the objector as it would for a pacifist, it appears difficult for states to discard claims in their entirety, but they may attempt to restrict the right as a necessary means to achieve a legitimate aim.

2.1.2.2.2.3 National Perspective

In Australia, *Defence Legislation Amendment Act 1992 No. 91* of 1992 provides that in time of war, persons liable to serve may claim conscientious objection when opposed to participate in war or a particular war for reasons of conscience. Their objections exempt them from combat duties as long as the belief continues.⁸⁰ In other countries, the laws providing for the exemption of conscientious objectors do not expressly limit the right to pacifists by including the essential requirement to object to all wars within the law. In Germany, the government has done away with the need for the personal interview of the objector before induction, and claims are adjudicated based on the claimant's statement. Such a statement must include reference to Article 4(b) of the Constitution, which provides that "no one shall be compelled to perform armed war service contrary to his conscience." In Greece, the law provides that conscientious status may be granted to "those who invoke their religious or ideological convictions in order not to fulfil their draft obligations for

⁷⁹ *Idem*, paragraph 153.

⁸⁰ Australia *Defence Legislation Amendment Act 1992 No. 91 of 1992*, Article 61(A)(1)(i).

reasons of conscience.”⁸¹ Therefore these laws may allow for a more liberal interpretation and for selective objections to be recognized.

2.1.2.2.3 Issues of Concern

From this brief overview of international, regional and domestic treaties, laws and state practices, it appears that the right of pacifists to conscientious objection has been widely recognized by states either enacting legal provisions to protect it or abolishing conscription and opting for voluntary and professional armies. However, there are still three main issues of concern.

First, fifty-one states in the world where conscription is still enforced do not recognize the right of conscripts to conscientious objection, be they pacifists or selective objectors, and consequently, conscripts are either coerced into acting against their conscience or punished for their refusal to participate in military actions or forced to go into exile due to lack of protection in their own countries. The status of conscription in an additional five states could not be determined.

Second, many of the countries which have opted for professional armies do not see the need – because of the voluntary nature of the service –for specific provisions to enable soldiers to raise conscientious objection after induction, thereby ignoring the fact that such conflict can manifest itself at any time during a soldiers’ career.⁸²

Third, while selective objections are grounded in profound, genuine conscientious beliefs, states often systematically refuse to grant to selective objectors the same exemption as pacifists.

⁸¹ The Right to Conscientious Objection in Europe: A Review of the Current Situation, Quaker Council for European Affairs, pages 33 and 35, <http://www.quaker.org/qcea/coreport/>.

⁸² Report of the Secretary-General prepared pursuant to Commission resolution 1991/65, Bahrain and Costa Rica, <http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/81ea472cc79356ce8025678c0050c019?Opendocument>

3 Issues of concern

3.1 First issue of concern: the non-recognition of conscientious objection in countries where conscription is still enforced.

In letters of protest following the adoption by the Commission of Human Rights of resolutions on the issue of conscientious objections, several countries argued that sovereign states have the right to ensure their national defense through the process of conscription and when the exercise of this prerogative infringed upon individual rights national defense should prevail especially when faced with a state of emergency that threatens the life of a nation.⁸³ Duty to serve and the power of states to conscript may be seen as reciprocal duties or as a violation of many human rights including security, liberty and even life. Determining which one should prevail could be the subject of a whole other research. When countries resort to conscription without exemption, even for conscientious objection, it raises questions as to whether freedom of conscience, which is so intimately linked to the identity of a person and to his human dignity, should prevail over the state's sovereign right to ensure national defense. This question does not allow for an unqualified answer. For long time, the principle of sovereignty and the duty of non-intervention kept the treatment of human rights and, for that matter, violations of these rights, within the realm of domestic jurisdiction and away from outside interference. However, when the international community adopted the UDHR and the two Covenants, it pledged to promote, respect and protect human rights and "established the benchmark for state conduct."⁸⁴ When member states to the United Nations in their Charter considered the protection and observance of human rights as an essential component of enduring world peace and stability, human

⁸³ Letters of dissent E/CN.4/1998/173, E/CN.4/2000/160, E/CN.4/2002/188; Adopted also in the *Gillette* and the *Zonshein* cases, Footnote 7.

⁸⁴ The Responsibility to Protect, Report of the International Commission on Intervention and State Sovereignty (ICISS), para. 2.17, <http://www.iciss.ca/pdf/Commission-Report.pdf>

rights transcended national boundaries⁸⁵ and became an international responsibility. Sovereignty was no longer a defense to their violations. Respect for and protection of human rights is an intrinsic part of all democratic sovereign states and imposes upon them the duty to govern with respect for the dignity and worth of all human being. States must treat each individual as *an end and not as means*.⁸⁶

The universally accepted premise that sovereign states have the right to raise armies⁸⁷ is not a license for them to violate the rights of their citizens. However, the UDHR as most human rights instruments clearly state that while some human rights are non-derogable most of them can be limited. Even the most basic right to life can be limited as evidenced by the right to resort to individual or collective self-defense.⁸⁸ Therefore, while states can impose limitations, they can only do so when prescribed by law⁸⁹ and to the extent necessary to achieve, by proportionate means, the legitimate aims.⁹⁰ Limitation provisions must be strictly interpreted⁹¹ and are the subject of great scrutiny by Courts.⁹² Article 18 (3) of ICCPR enumerates public safety, order, health, morals or the need to protect the fundamental rights and freedoms of others⁹³ as recognized aims, but not national security. However, national security is too often considered synonymous with public safety.

In the vast majority of cases concerning conscientious objection, the central issue of debates will be the criterion of necessity requiring an assessment of the proportionality of the means chosen “...in response to a pressing social need...” with the level of interference

⁸⁵ Articles 2 (1), 2.7 and 55 of the Charter of the United Nations.

⁸⁶ Robert Jackson, *Sovereignty, Evolution of an Idea*, Polity Press, Cambridge 2007, page 117.

⁸⁷ Footnote 14, page 69.

⁸⁸ Footnote 5, ICCPR article 6(2).

⁸⁹ *Sunday Times v. United Kingdom*, 26 April 1979, Series A No 30, (1979-80) 2ECRR 245, paragraphs 47-49; *Refah Partisi (The Welfare Party) and Others v. Turkey*, ECHR, Grand Chamber, Applications Nos. 41340/98, 41342/98, 41343/98 and 41344/98, Judgment, 13 February 2003.

⁹⁰ Footnote 5; footnote 22, *Kokkinakis v. Greece*; *Sergei Malakhovsky and Alexander Pikul v. Belarus*, Communication No. 1207/2003, U.N. Doc. CCPR/C/84/D/1207/2003 (2005) paras. 7.2 and 7.3; *Brinkhof v. The Netherlands*, Communication No. 402/1990, CCPR/C/48/D/402/1990, 27 July 1993, para.9.3; *Foin v. France*, Communication No. 666/1995, CCPR/C/67/D/666/1995, 3 November 1999, para. 10.3; *Venier and Nicolas v. France*, Communications No 690/1996 & 691/1996, CCPR/C/69/D/690/1996 & 691/1996, para. 10.4; Note 87, *Thlimmenos v. Greece*, para.44; *Paul Westerman v. Netherlands*, Communication No. 682/1996, U.N. Doc. CCPR/C/67/D/682/1996, 13 December 1999.

⁹¹ Footnote 4.

⁹² *Manoussakis and Others v. Greece*, ECtHR, Application No. Application No. 18748/91, Judgment, 26 September 1996.

⁹³ Footnote 5.

“no greater than is necessary”⁹⁴ to achieve the legitimate aim. This assessment often requires courts to determine the latitude states have in limiting individual human rights in the name of higher pressing interests while being mindful of the states’ obligations to respect the principle of non-discrimination. In the past, Courts have granted a wider, but not unlimited, discretion to states in regard to matters of national security or when the practice amongst state members lacked consensus.⁹⁵ Decision-makers and ultimately courts must decide if the contested governmental policy is one of “sufficient importance to warrant overriding a constitutionally protected right or freedom”⁹⁶ and also if the proportionality test has been met.

Of the fifty-one countries still enforcing conscription and not recognizing the right of conscripts to conscientious objection⁹⁷ forty-seven recognize the right to freedom of thought, conscience, belief or religion in their constitutions, and forty-five have ratified the ICCPR. These states are therefore bound by their constitutions and by international instruments to respect and protect the fundamental rights or freedoms of conscience of their citizens. Also, twenty-seven of them have ratified the Optional Protocol and have accepted the jurisdiction of the HRC as to alleged violations of the rights and freedoms protected under the Covenant. Therefore, in light of the views expressed by the HRC in the case of the Republic of Korea, state parties to the Optional Protocol may find it more difficult in the future to base their refusal on grounds such as the exceptional circumstances prevailing in the countries or the possible danger of weakening national unity. Unless they can clearly distinguish the facts of their case from the one mentioned above they may no longer be granted unlimited latitude in restricting the rights of conscripts to conscientious objection.⁹⁸

If a law infringes upon the constitutional right of freedom of conscience, such a law must be declared unconstitutional unless the means chosen meet minimum standard for realizing a legitimate purpose,⁹⁹ or if the effects of the law, otherwise considered valid,

⁹⁴ *Silver v. United Kingdom*, ECtHR, Applications No. Application No. 5947/72, 6205/73, 7052/75, 7061/75, 7107/75, 7113/75 and 7136/75, Judgment, 25 March 1983, paragraph 47.

⁹⁵ *C.G. and others v. Bulgaria*, ECtHR, Application 1365/07, Judgment, 24 April 2008, paragraph 47; *Handyside v. United Kingdom*, ECtHR, Application No. 5493/72, Judgment, 7 December 1976, paragraph 49.

⁹⁶ Note 23, *R. v. Big M Drug Mart Ltd.*, para. 139; *R. v. Oakes*, [1986] CanLII 46, paragraphs 69 to 71.

⁹⁷ Annex C.

⁹⁸ Footnote 5 and footnote 44.

⁹⁹ Footnote 96, *R. v. Oakes*; *R. v. Edwards Books and Art Ltd*, 1986 CanLII 12 (S.C.C.) para. 148.

create situations that infringe upon a constitutional right, Courts may, being mindful not to usurp legislative prerogative,¹⁰⁰ read down the law as to allow for “constitutional exemptions”¹⁰¹ It can be argued that if states consider conscription as the necessary means to respond to a pressing social need, they must have valid reasons for refusing to grant conscripts exemptions based on their genuine conscientious objection. Absent such justification and proportionality, the coercion of a conscript into military service or punishment for his refusal to serve based on conscientious objection would be unlawful and considered as a violation by the state of its constitutional and international obligation to respect and protect the fundamental rights of its citizens. Furthermore, considering the general practices of states to resort to alternative service *in lieu* of military service as a means to put the principle of equality into effect, as will be discussed below, the argument that the denial to any exemption meets the proportionality test seems tenuous and might be rejected.

3.2 Second issue of concern: Failure to recognize the need to guarantee professional soldiers the right to raise conscientious objection before and after induction.

The second issue has profound consequences and failure to provide for such claims overlooks the fact that conscientious objection may develop at any time during a soldiers’ career. A soldier’s voluntary choice to join an army and his obligation to obey his superior’s orders should not lead to the abdication of his rights. Individuals must not be required to relinquish their conscience when they trade their civilian clothes for the uniform. The Human Right Commission in its analytical reports and the Council of Europe and the European Union Parliamentary Assembly in numerous resolutions and recommendations have consistently highlighted the need for states to enact legislations on the right of soldiers to conscientious objection both prior or after induction.¹⁰² The fact that

100 *R v. Sharpe*, 2001 CanLII 74, paragraph 114.

101 Footnote 24, *R. v. Big M Drug Mart Ltd.*, paragraph 88; *The Welsh case*, Opinion of Justice Harland 364 to 367; *Thlimmenos v. Greece*, ECHR, Application no. 34369/97, Judgment, 6 April 2000, para.48.

102 Footnotes 38, 56, 60 and 66.

a soldier voluntarily contracts his services to the army does not prevent him from enjoying his rights and neither does it relieve the state of its obligations to respect such rights. The exercise of his constitutional right must be distinguished from a normal breach of contract since its violation has a serious impact on the integrity of the objector. Convicting and sentencing a soldier for refusing to obey orders in that case or giving him a dishonorable discharge is in clear violation of his right to freedom of conscience.

3.3 Third issue of concern: Distinction between pacifists and selective objectors and non-recognition of the latter.

There are three main reasons for distinguishing between pacifists and selective conscientious objectors. First, recognition would be a breach of the principle of equality second, the nature of selective objection makes it more difficult to ensure a fair administrable decision-making process; hence increasing resentment within the army and society at large; and third, its recognition would open the floodgates to claims and encourage civil disobedience.

National Courts have rarely ruled in favour of a claim to selective objection.¹⁰³ However, on June 2005, the Federal Administrative Court of Germany (*Bundesverwaltungsgericht*) acquitted a soldier charged with insubordination for refusing to participate in military activity that could potentially assist “*Operation Iraqi Freedom*.” In this case, the Court did not approach the issue from the angle of the soldier’s right to conscientiously object, but rather from that of his constitutional rights in ruling that his refusal to assist in what he believed to be an unlawful military action was legally grounded on his constitutional right to exercise his freedom of conscience. The Court considered the facts in light of both the subjective views of the soldier and the “objective serious legal reservations” of members of the international community with regard to the legality of the war. It also assessed the justification for the belief, not to reach a legal finding on the issue, but to determine if the soldier’s objection was subjectively sincere and “objectively

¹⁰³ Footnote 7, *the Gillette case and the Zonshein case*.

reasonable”. It is noteworthy that the court did not rule on the morality or legality of “*Operation Iraqi Freedom*. ”¹⁰⁴

3.3.1 The principle of equality

Equality of all human beings in dignity and in rights and non-discrimination are the “cornerstone” of Human Rights Law. In her book, *Consent, Dissent and Patriotism*, Margaret Levi looks at the factors motivating citizens to comply, refuse or withdraw their consent to government demands such as military service. She argues that the more troops a government needs, the more likely it is to resort to conscription. Furthermore, the more democratic a state is, the more universal are its laws and the more convinced its citizens are that the burden will be shared by the majority of the population, the more likely citizens will comply with universal conscription.¹⁰⁵ Therefore, fairness and equity of the system in place and the way this system is perceived by society are essential factors that favour the acceptance of state policies that impose great burden upon its members.

Whereas every member of society must assume burdensome duties, such as defending his or her country, exemptions from a law of general application or from general obligations imposed on members of a society are not unusual. As stated by the United States Supreme Court, “[a]s is shown by the long history of the very provision under discussion, [Article 6(j) of the Military Selective Service Act 1967] it is not inconsistent with orderly democratic government for individuals to be exempted by law, on account of special characteristics, from general duties of a burdensome nature.”¹⁰⁶ While “[p]luralism and democracy are based on a compromise that requires various concessions by individuals or groups of individuals, who must sometimes agree to limit some of the freedoms they

¹⁰⁴ *Germany v. N.* Decision No. 2 WD 12.04. AT <<http://www.bverwg.de>> Bundesverwaltungsgericht (German Federal Administrative Court), June 21 2005, Ilja Baudisch, 100 Am. J. Int'l L. 911.

¹⁰⁵ Footnote 25, page 35; Social contract theorists also argue that the protection men seek in entering in social contracts is ensured by the fact that all members receive an equal part of the benefits but share an equal part of the burdens. See Jean Jacques Rousseau, *The Social Contract or Principles of Political Rights*, 1762, translated by G. D. H. Cole, public domain Rendered into HTML and text by Jon Roland of the Constitution Society, Book I, chapter 6. <http://www.constitution.org/jjr/socon.htm>.

¹⁰⁶ Footnote 7, the *Gillette case*, page 460.

enjoy in order to guarantee greater stability of the country as a whole”¹⁰⁷ the crucial question is: what constitutes an appropriate, necessary and justified compromise in the case of conscientious objectors?

The search for a compromise must take into account the development and expansion of a culture of human rights and the widespread belief and deep-seated acceptance by individuals of their own responsibility in respecting and protecting human rights allowing them to have a better understanding of the meaning and scope of the protected concepts and to be open minded about them. While the principle of equality is of the outmost importance, it requires states to treat persons similarly in similar situations but also differently in different situations.¹⁰⁸ “To treat different matters equally in a mechanical way would be as unjust as to treat equal matters differently.”¹⁰⁹ One compromise is the adoption of alternative service, which many states around the world consider as an appropriate equivalent to military service.¹¹⁰ Therefore, although national defense is a collective responsibility, participation in it can take different forms and individuals can contribute in different ways of equal importance.

While there seems to be a clear distinction between pacifists and non-pacifists, in relation to military service, such a distinction may not be so easily accepted when comparing selective objectors to non-pacifists. The question is whether the distinction in treatment is reasonable and justified.¹¹¹ Considering that selective objectors and pacifists base their objections on similar profound grounds and that the use of deadly force bears the same impact on the objectors’ conscience it appears unjustified refusing them the same protection. In this assessment it is important to remember that both the HRC and the ECtHR, have consistently ruled that while non-discrimination does not necessarily prohibit

¹⁰⁷ Footnote 89, *Refah Partisi (The Welfare Party) and Others v. Turkey*, paragraph 99.

¹⁰⁸ Footnote 101, *Thlimmenos v. Greece*, para.44.

¹⁰⁹ Footnote 54, Dissenting opinion of Judge Tanaka, *South West Africa Cases (second phase)* page 1103; Footnote 101, *Case of Thlimmenos v. Greece*.

¹¹⁰ *Canas-Segovia v. United States Immigration and Naturalization Service* Brief Amicus Curiae of the UNHCR, *International Journal of Refugee Law*, Vol.2. No. 3 page 406.

¹¹¹ *Idem*, page 1104.

“all different treatments”, any differentiation must be based “on reasonable and objective criteria.”¹¹²

3.3.1.1 Is the distinction between pacifists and selective objectors reasonable and justified?

In *Gillette v. United States of America*, the U.S. Supreme Court was faced with a similar question. The case centered on the issue of two conscientious objectors who were opposed to serving in the Vietnam War based on the belief that it was an “unjust war”. In light of the specific drafting of the law, the Court limited the exemption to conscientious objection to war in any forms, and therefore to pacifists. The applicants argued that if one religion prohibits all wars while another prohibits only unjust war, limiting the exemption to the opposition to all wars was creating a *de facto* discrimination among religious beliefs, in violation of the First Amendment. The Court rejected the applicants’ argument and ruled that neither the intent nor the effects of the law were to favor a particular religious group to the detriment of others and in the absence of evidence demonstrating the lack of neutral or secular basis for limiting the exemption it was open to the government to act accordingly. It considered that the law as it stood made no distinction whereby all pacifists, independently of their religious training or beliefs – *which interpretation had been expanded to include moral or ethical beliefs* – could benefit from the exemption. However, what the applicants were actually seeking was a different exemption based on religious grounds.¹¹³ The Court ruled that it was within the discretionary power of a government to draw the line between permissible or non-permissible exemptions when such distinction “reflects valid secular purposes.”

It is the essence of good governance to make choices that allow or prohibit certain conducts or behaviors in public interest but these choices must be made in accordance with accepted general principles of law. States may limit the benefits or exemptions granted by law or treaties, such as the groups protected in the Refugee Convention or the Genocide

¹¹² Footnote 90, *Brinkhof v. The Netherlands*, para. 9.3; *Paul Westerman v. Netherlands*, *Foin v. France*, para. 10.3; *Venier and Nicolas v. France*, para. 10.4.

¹¹³ Footnote 7 the *Gillette case*, page 470

Convention to ensure the protection of stable and identifiable groups, however, the right of conscientious objection is not a privilege granted or agreed upon by states or a new right. It derives from the freedom of conscience, which most states have already undertaken to protect. Therefore, any interference must be necessary, justified and reasonable. For the US Supreme Court, the focus of the exemption was on the nature of the war and not the impact the objector's participation on his conscience and it shifted the central issue onto the right and not on its beneficiary. By focusing on the nature of the war, the Court considered the exemption to be a privilege as opposed to a right and granted a wider margin of appreciation to the State. When adopting the view that the focus should be on the holder of the right then the distinction between pacifists and selective objectors is unjustified.

3.3.1.2 Difficulties in administering the decision-process

This argument seems to be the most common among states, and it involves several sub-issues requiring analysis before offering a conclusion. Courts around the world have expressed their concerns regarding the difficulty involved in administering a fair decision-process in determining who may be exempted while others have to serve. But the question is: what are they truly afraid of? Are they preoccupied with the difficulty to reach a fair decision on the sincerity of the objector or what they perceive as a "limitless variety of beliefs" making such claims one of "uncertain dimension."¹¹⁴

3.3.1.2.1 Sincerity of the belief

Difficulty in determining the genuineness of a belief is not a reason to deny its existence. While I agree that the solution is not as simple "as merely a commonplace chore of weeding out 'spurious claims'",¹¹⁵ I believe it is possible to put in place mechanisms to ensure fairness and objectivity. Before returning a finding of guilty in criminal cases where the life and liberty of the accused are at stake, judges or juries must be satisfied beyond reasonable doubt that the accused committed the *actus reus* and had the requisite *mens rea*,

¹¹⁴ Footnote 7 the *Gillette case*, page 455

¹¹⁵ *Idem*, page 456

meaning the guilty state of mind. The difficulty to reach such decision does not affect the fairness of process. Judges around the world assess the credibility of witnesses and accused and decide on complex factual and legal issues. Conscientious boards and commanding officers do the same in assessing the genuineness of pacifists' beliefs. How do you prove a person state of mind or the sincerity of a pacifist's claim if not by direct or circumstantial evidence? Like in most cases, decision-makers will have to evaluate and assess the objector's testimony and, if necessary, seek confirmation in other evidence, such as the objectors' actions, words, behavior or even omissions which may substantiate the sincerity of his claim.

In many decisions, the issue of the sincerity of the applicants' belief has rarely been contested. On the contrary, in the *Gillette* case, the Court held that "[t]he denial of exemption was upheld...not because of doubt about the sincerity or the religious character of petitioner's objection to military service, but because his objection ran to a particular war." In *Sepet v. Secretary of State of Home Department*, the House of Lords stated that "[t]heir unwillingness to serve is based on their strong and sincere opposition to the policy of the Turkish Government..." In *Hinzman v. Canada*, the Canadian Federal Court stated, "the Board accepted that Mr. Hinzman's objections to the war in Iraq were indeed sincere and deeply held, and no issue is taken with respect to that finding."¹¹⁶ Needless to say, in every system, deciding on issues, which involves subjective factors, always gives a chance to some to use the system fraudulently in order to avoid their responsibilities. However, fear of abuses must not be used as grounds to deny a right but what is required is increased vigilance vis-à-vis such cases.

3.3.1.2.2 Limitless variety of beliefs and sources for their justification

One of the main objections to exempting selective objectors is that their claims subsume a limitless variety of beliefs and sources for their justification. While it is true that a person may object to a particular war based on a limitless list of genuine beliefs, it is

¹¹⁶ *Idem*, page 440; *Sepet and Bulbul v. Secretary of State of Home Department*, [2003] UKHL 15, paragraph 8; Footnote 1, *Hinzman v. Canada* (F.C), paragraph 108.

the characterization of the belief as a conscientious one that confers protection to the objector.

3.3.1.2.2.1 What constitutes conscientious beliefs or convictions?

The terms “belief” and “religion” should be broadly construed¹¹⁷ and as the ECtHR interpreting Article 2 of Protocol No.1 stated that a conviction “denotes views that attain a certain level of cogency, seriousness, cohesion and importance.”¹¹⁸ An administrable system of exemption should set forth criteria for decision-makers to determine what place the belief plays in the objector’s life, but not how it was acquired. The human mind is constantly exposed to different ideas, philosophies and theories on the purpose, obligations and duties in an individual’s life and the way he interacts with others. If conscientious beliefs were all the beliefs a person considered right or wrong, it would apply to a limitless variety of decisions. However, conscientious beliefs apply to those concepts and values that guide our vision of life and the way we interact with others in relation to basic human rights, such as the right to life, liberty and security of the person, as well as other fundamental freedoms that go to the heart of our way of ensuring both our own dignity and worth and the protection of the dignity and rights of our fellow human being.

3.3.1.2.2.2 Conscientious objection and the right to life

One of the goals of the international community is to educate members of society to recognize that universal protection of human rights is better served if each member of society profoundly believes in the importance of their role in this process. Therefore, it would be unjust to coerce or punish their behavior when their refusal to act against their conscience is based on their genuine interpretation of human rights instruments and their desire to abide by them. When the duty imposed upon a soldier to use lethal force in a military action seriously conflicts with his conscience, he should be allowed to exercise his

¹¹⁷ Footnote 4

¹¹⁸ *Valsamis v. Greece*, ECtHR, Application No. 21787/93, Judgment, 18 December 1996 paragraph 25; Footnote 7, the *Welsh* case, page 358.

right of freedom of conscience. As Justice Douglas stated in his dissenting opinion in the *Gillette* case, the real question is “[c]an a conscientious objector, whether his objection be rooted in ‘religion’ or in moral values, be required to kill?”¹¹⁹

The right to life is one of the most sacred and inherent human rights, one without which no other is possible.¹²⁰ States have the obligation to take reasonable measures to ensure respect and protection for the sanctity of life, and must punish not only the “deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces.”¹²¹ The duty of states to prevent war and “to strengthen international peace and security [...] constitute the most important condition and guarantee for the safeguarding of the right to life.”¹²²

The law in most national jurisdictions proscribes murder. Also most criminal codes provide for pleas against charges of murder, including self-defense. Therefore, the willingness of a person to resort to self-defense to defend his life or the life of his loved ones in a domestic situation was ruled insufficient to disqualify him as a pacifist.¹²³ By analogy, since war involves using force to protect one’s country and lethal force against individuals who threaten the life of the nation, it can be argued that the willingness of a soldier to use force only in the defense of his country does not disqualify him as a conscientious objectors even if the scope of his objection is narrower than that of a pacifist. Selective objectors are not in favor of war except if the war is an unjust one; they are against war except if it is a just war and the use of deadly force in any other circumstances is, for them, murder.

The notion of just war dates back many centuries¹²⁴ and while it is often perceived as being based on religious grounds many of its underlying principles have been articulated

¹¹⁹ Footnote 7, the *Gillette case*, Dissenting opinion of Justice Douglas, 463 to 476, 464

¹²⁰ HRC, General Comment 14, The Right to Life (Art.6), para. 1.

¹²¹ HRC, General Comment 6, The Right to Life (Art.6) para. 3.

¹²² *Idem*, paragraph 2.

¹²³ *Sicurella v. United States* 348 U.S at 389; *United States v. Haughton*, 413 F. 2d 736, 740-742 (CA9 1969) and *United States v. Carroll*, 398 F. 2d 651, 655 (CA3 1968);

¹²⁴ Charles Guthrie and Michael Quinlan, *Just War, The Just War Tradition: Ethics in Modern Warfare*, Walker & Company, New York, 2007 pages 12 and 13.

and adopted in international norms¹²⁵ including the necessity to resort to war only in self-defense and the imperative to subordinate its legality to due authorization. In deciding as to whether a war is unjust, selective objectors must evaluate complex factual and legal facts, which, in most cases, are considered but discarded by their democratic government when it takes the decision to go to war. Therefore governments often perceive the selective objectors' decision as an opposition to state policies and not as one that is based on conscientious beliefs.

States, like individuals, may consider many factors in reaching their decisions, but they must be guided by and respect their legal international and domestic obligations to resort to war only in self-defense or with due authorization. A hundred and ninety two members of the United Nations are bound by its Charter;¹²⁶ one of its principles is to refrain from threatening to use force or actually resorting to force.¹²⁷ Article 51 of the UN Charter provides that nothing in the Charter undermines or deprives an individual or collective of its right to self-defense, in its more conventional definition, but it subordinates any other used of force to the prior authorization of the Security Council.

Scholars are divided with regard to the wisdom of adopting a conventional definition of self-defense that may seem outdated due to current concerns about terrorism and the need to subordinate the legality to resort to war in all other cases to the prior authorization of the Security Council since it has difficulty to reach consensus on crucial issues due to the many conflicting interests involved.¹²⁸ Despite these debates, until recently an “[a]nalysis of State and UN practice thus show[ed] that the overwhelming majority of States firmly believe that anticipatory self-defense is not allowed by the UN Charter”¹²⁹ and in all other cases is subjected to prior authorization by the Security Council. Until another way to obtain international consensus is found, individual resort to military actions without the support of the majority of the international community may be counter-

¹²⁵ Richard Wasserstrom, *Selective Conscientious Objectors and the Gillette Case*, in *War and Moral Responsibility*, A Philosophy & Public Affairs Reader, Princetown University Press, 1974, pages 159 182, 172.

¹²⁶ Article 4 of the Charter of the United Nations.

¹²⁷ *Idem*, Article 2.

¹²⁸ Michael J. Davidson, *War and Doubtful Soldier*, 19 *Notre Dame J.L. Ethics & Pub. Pol’y* 91, page 114.

¹²⁹ Antonio Cassese, *International Law*, Second Edition, Oxford University Press, 2005, page 361.

productive. Terrorism is a worldwide threat and can rob people of their lives everywhere in the world regardless of the country or the faith of its people. The fact that terrorism represents a global threat and the difficulty of identifying and locating the real culprits and mastermind eradicating it may be found more in a collective and representative consensus on the means, the timing and the location of intervention than in individual actions, which may increase resentment among members of the international community, because even though they may be fighting for the same cause, favour different approaches. The result is an even wider gap between “them” and “us”.

It is said that a country’s army combines within its ranks the hope, the strength and the plurality of views of the society it stands to defend. So it is not surprising that these divisions are also echoed in armies around the world, which could be the reason why some soldiers for a multitude of reasons, find it immoral to participate in a war while others believe it to be their solemn duty and moral choice to serve. Both maybe right. The Israeli soldiers who refuse to serve in the occupied territories,¹³⁰ the American soldiers who refuse to serve in *Operation Iraqi Freedom*,¹³¹ the German soldiers who refused to support it,¹³² the Iranian soldiers who opposed the possible use of nuclear and chemical warfare by their country,¹³³ are all individuals who are moved by similar convictions. For them, reaching a decision is not an easy process and as for all other decisions they have to make in their life, they must rely on whatever helps them best to decide what is conscientiously right or wrong for them. Regardless of the fact that their convictions are based on the religious notion of “just war” or on their belief in the respect of international norms, all share a common denominator, namely the belief that their country is violating the law of man or God and that their association with this illegal act would be immoral.

While scholars question the appropriateness of definitions or authorization mechanisms and politicians are trying to argue for an expansion of the notion of self-defense to include preventive military actions stretching the notion of self-defense to be invoked in response of uncertain potential threats by unclear enemies, selective objectors

¹³⁰ Footnote 7, the *Zonshein case*.

¹³¹ Footnote 1.

¹³² Footnote 106.

¹³³ *Zolfagharkhani v. Canada (Minister of Employment and Immigration)*, [1993] 3 F.C. 540.

must decide in conscience if the lives they are ordered to take will truly be taken in the defense of their country. Therefore, despite the labeling of selective objection as a political belief, selective objectors resorting to either their religious or secular belief in the justness of the war anchor their beliefs in one of the most fundamental tenants of a democratic society, namely the rule of law. Their beliefs may be based, in part, on political opinions, but like a piece of art born in the mind of a sculptor and shaped by combining different elements, who is to say which of these elements is the most important? Is conscientious belief, based in some accounts on political opinions less deserving than when drawn from one or many of the more conventional sources?

Interpreting Article 6 (j) of the United States of America Universal Military Training and Service Act, which excludes belief based on “essentially political, sociological, or philosophical views or a merely personal moral code”, the Supreme Court in *Welsh v. United States* held that the law was not disqualifying those who “hold strong beliefs about ... domestic and foreign affairs or even those whose conscientious objection to participation in all wars *is founded to a substantial* extent upon considerations of public policy. The two groups of registrants that obviously fall within these exclusions from the exemption are those whose beliefs *are not deeply held* and those whose objection to war does not rest *at all* upon moral, ethical, or religious principle but instead rests *solely* upon considerations of policy, pragmatism, or expediency.”¹³⁴

One of the arguments against selective objection is that the assessment of the justness of the war is by its nature changeable¹³⁵ and increases the difficulty of ensuring the fairness of the decision-process.¹³⁶ Its changeable nature is partially due to the fact that selective objectors don’t have the proper information or competence to make an educated decision on the actual circumstances favoring the resort to war as the proper means to ensure national security and therefore may arrive at the wrong conclusion. It is important to recall that the vast majority of the information supporting a state’s decision to wage war is classified, and it could change the objector’s position if made available. However, the question is whether the righteousness of the objector’s assessment of the legality of the war

¹³⁴ Footnote 7, the *Welsh* case, pages 342 and 343.

¹³⁵ Footnote 7, the *Gillette* case, page 455.

¹³⁶ Footnote 7, the *Gillette* case and the *Zonshein* case.

increases the fairness of the decision-process. The essential element is the sincerity of the objectors' beliefs and not his assessment of the conflict. The righteousness of his decision does not affect the fairness of the decision-process but subordinates the sincerity of his belief to the righteousness of the "substance of the position relating to the justifiability of the war."¹³⁷ When assessing the sincerity of pacifists, decision-makers do not consider the truthfulness of the religious or secular justification underlining the beliefs. The assessment selective objectors perform is not aimed at influencing government policy or engaging their country into war; neither is it aimed at influencing their fellow soldiers or citizens. It is essential to sustain a decision, which, by its very nature, must be based on the objector's "*intime conviction*" of what he considers to be the morally acceptable line of conduct. This is what differentiates it from a political opinion.¹³⁸

As stated earlier, while it is possible to assess the truthfulness of the belief, the truthfulness of the justification underpinning the belief should not be assessed.¹³⁹ When evaluating selective objectors' requests, decision-makers should consider whether the basis of his justification qualifies as a conscientious one, but should not consider the truthfulness of the justification of the grounds. This is precisely the approach the Federal Administrative Court of Germany adopted; it did not decide on the legitimacy of the *Operation Iraqi Freedom*, but rather determined that owing to the serious reservations within the international community about the legitimacy of resorting to military action, the soldier's belief was subjectively and objectively reasonable.¹⁴⁰

3.4 The risk that the difficulty to ensure a fair decision process increases resentment and dissatisfaction within the army and society as a whole

A subsidiary argument to the need to ensure fairness of the decision-process is the risk that perceived unfairness creates resentment and dissatisfaction within the army ranks

¹³⁷ Footnote 123, Wasserstrom, 173.

¹³⁸ Footnote 18, paragraph 47.

¹³⁹ *United States v. Ballard*, 322 US 78, 86 & 87 (1944); footnote 7, the *Seeger* case.

¹⁴⁰ Footnote 106.

and society as a whole. This raises two issues, namely the perception of unfairness and the dangers that could result from having divergent views about the essence of civic duties.

3.4.1 Perception of unfairness

Perceived unfairness of a fair system is often due to lack of knowledge about the components of the system and its checks and balances mechanisms to ensure consistency in reaching decisions. Therefore, one of the ways to address this problem is to implement a transparent and independent decision-making system, by ensuring accessibility to the decision process and by educating people about the nature, scope and process of the mechanisms used to reach decisions and the applicable laws and criteria.

3.4.2 Dangers that could result from divergent views about the essence of civic duties

The second issue is more delicate because people in society form different opinions and while some of these strongly-held opinions are legitimate they may nevertheless arouse oppositions and resentment in society. A state must strike a balance as to when and how it should intervene to resolve such problems. When national security is at risk or perceived to be at risk, the level of tolerance of governments and members of society regarding what could potentially endanger state security may vary drastically in time of unrest as opposed to peacetime. The balance between adequate means to achieve the intended aim may become blurred by fear and convictions may be more difficult to uphold. For example, despite genuine belief that no circumstance can justify resorting to torture, it may be tempting to relieve one's conscience when resorting to controversial conducts to expand the definition of what used to be an illegitimate conduct into a legitimate one based on new circumstances. Selective conscientious objectors may be perceived as cowardly or non-patriotic. Spouses or parents may not understand why they should lose their loved ones when others stay behind. There may not be an easy answer to this, but in the final analysis, it mainly depends on the profound convictions of their loved ones. It is not by violating the right to freedom of conscience that a state can silence the voices of dissent; all it can do is

shift the sources of the perceived unfairness away from the voices of combatants and supporters to the voice of objectors.

It is in times of unrest that the protection of fundamental and non-derogable rights is crucial.¹⁴¹ By protecting those ideas and convictions that are thought to be unpopular or offensive to the community, a state can truly respect and protect the right of every human being to act upon their genuine conscientious beliefs.¹⁴² Tolerance and education about the benefit of pluralism as a tenet of a democratic society are better means of ensuring respect for all fundamental rights than trying to silence the voices of the conscience.

As stated by the ECtHR “...it is possible that tension is created in situations where a religious or any other community becomes divided, [...]The role of the authorities in such circumstances is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other.”¹⁴³

3.5 Domino effect and danger of encouraging civil disobedience

States advance the argument that the recognition of the right to selective objection may encourage undecided soldiers to join the ranks of the opponents or that it may encourage civil disobedience.¹⁴⁴ States pledge to promote, respect and protect fundamental human rights, and while it may be legitimate to limit a person’s right to protect the rights of others, it is unacceptable to deny one’s right to prevent those struggling to resolve their moral conflict to exercise their legitimate rights in order to avoid a flood of demands. Courts have considered similar argument in response to a fear of an increase in demands in cases of refugee claims. In one of its finding, the Supreme Court of Canada considered that while the fear of a drastic increase in claims may be legitimate politically, to take it into account in a legal determination on the interpretation of the scope of the protection

¹⁴¹ HRC, General Comment No. 5, Derogations of Rights (Art.4), para. 3.

¹⁴² Footnote 91, *Refah Partisi (The Welfare Party) and Others v. Turkey*, paragraph 44.

¹⁴³ Footnote 22, *Kokkinakis v. Greece*, paragraph 53; Note 43, *Mr. Yeo-Bum Yoon and Mr. Myung-Jin Choi v Republic of Korea*, paragraph 8.4.

¹⁴⁴ Footnote 7, *the Gillette case*.

afforded by the Refugee Convention, and by analogy human rights instruments, would be contrary to the spirit and purpose of the law.¹⁴⁵

Moreover, states have a duty to promote and educate its population on the existence of human rights and on their scope. This duty has been highlighted by the Office of the High Commissioner of Human Rights in its analytical reports on the need to make information accessible to recruits and professional soldiers an essential factor in order to ensure, on the one hand, both better understanding of the issue and on the other, that no one, is denied of his right to apply for conscientious objection due to lack of information.¹⁴⁶ Furthermore, the recognition of the right to conscientiously object is not a “*carte blanche*” to avoiding one’s obligations since performing alternative service for the benefit of the collectivity constitutes the fulfillment of a citizen’s obligations.

One of the ways some states have devised to counter the temptation of “insincere objectors” to seek exemption is to significantly increase the duration of alternative service due to the differences in the nature and conditions of hardship between military service and alternative service. However, the jurisprudence on the issue appears contradictory. In *Foin v. France*, the HRC found that while the difference between alternative service and military service may exist to simply extend the length of alternative service to twice the one of military service was not reasonable or objective.¹⁴⁷ In *Järvinen v. Finland* the Committee found that the prolongation of alternative service from twelve to sixteen months in a system that abandoned the need to demonstrate the sincerity of the belief, was to “facilitate the administration of alternative service” and “[t]he legislation was based on practical considerations and had no discriminatory purpose.”¹⁴⁸ However, while it is important and essential to remember that alternative service must not be punitive in character it may be possible to contemplate, as a compromise, a measure that while not punitive may discourage insincere claimant.

Those who view recognizing the right to selective conscientious objection as an encouragement to civil disobedience fail to differentiate between objection of conscience

¹⁴⁵ *Chan v. Canada (Minister of Employment and Immigration)*, [1995] 3 S.C.R. 593, paragraph 57.

¹⁴⁶ Footnote 37, 27 February 2006, E/CN.4/2006/51 paragraphs 32 and 33.

¹⁴⁷ Footnote 90, *Foin v. France*, para. 10.3; Note 93, *Venier and Nicolas v. France*, para. 10.4;

¹⁴⁸ *Järvinen v. Finland*, Communication No. No. 295/1988, 25 July 1990, paragraph 6.4; *Autio v. Finland*, Application No. 17086/90.

and civil disobedience. Objectors of conscience stand up for their rights because for them abiding by the law would mean to performing acts that are contrary to their fundamental right to freedom of conscience. The main purpose of the objection is not to change the law but to act according to the belief that the law does allow or should allow the exemption.¹⁴⁹ It is motivated by the conviction that human rights law recognizes the right to freedom of conscience and that the law of general application cannot be construed as permitting an infringement unless it was the minimum means necessary to achieve the legitimate aim. It is not the intent of selective objectors to defy the law. It is their faith in the law and their respect for it that justifies their objection. Civil disobedience may be driven by a desire to change the law and the means of disobedience may be foreign to the source of what is considered unjust. Even if it is true that in some cases both may be motivated by profound genuine convictions making the distinction between the two concepts very tenuous, the key issue with regard to conscientious objection is the risk of being coerced into actions that are against one's conscience and/or being punished for refusal to perform such acts and not the possible consequences that of the actions undertaken as a means to express objection to the law that one considers unjust.

¹⁴⁹ John Rawls, *A Theory of Justice*, Original Edition, The Belknap Press of Harvard University Press, 1971, page 364.

4 Part III: Conscientious objection as a right and its possible impact on refugee claims

On 15 November 2007, the Supreme Court of Canada dismissed the application for leave to appeal in Case No. 32112.¹⁵⁰ That day, Jeremy Hinzman's dream to find sanctuary in Canada vanished. By denying leave to appeal, Canada's highest court rendered the decision finding Hinzman not a convention refugee final.¹⁵¹ Jeremy Hinzman must not have understood the reasons for such a decision, considering that Canada recognizes freedom of conscience under its Charter of Rights and Freedoms and that the sincerity of his belief was not questioned. But still the Court rejected his claim that being coerced in killing another human being in a military action he perceived as being contrary to international norms or being punished for refusing to do so constitute a violation of his fundamental rights amounting to persecution. He must have wondered what went wrong.

At present, the non-recognition by a state of the right to conscientious objection to military service leading to coercion or punishment is not considered as sufficient grounds for a refugee claim except in specific circumstances, including objection to participating in military action that is contrary to basic rules of human conducts. While many courts have acknowledged a clear intent at both the international and regional levels to move towards recognition of the right to conscientious objection, they have nevertheless concluded that at the present time none of the international or regional human rights instruments clearly recognizes or protects it.¹⁵² Courts have adopted a literal interpretation of the Convention rather than a more dynamic interpretation, as is usually the case in relation to both the

¹⁵⁰ Footnote 1, Jeremy Hinzman (SCC decision).

¹⁵¹ Convention Relating to the Status of Refugees, 189 UNTS 137, 1951 entered into force 22 April 1954; Protocol Relating to the Status of Refugees, 1967, 606 UNTS 267 entered into force 4 October 1967. (the "Refugee Convention").

¹⁵² Footnote 1, *Hinzman v. Canada (FC)*, paragraphs 210 and 233; footnote 115, *Sepet and Bulbul v. Secretary of State for the Home Department*, paragraph

Convention and other human rights instruments; they have thereby deprived it of its “dynamic” character.¹⁵³

The Refugee Convention defines a refugee as:

“...any person who...owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside of the country of his former habitual residence is unable or, owing to such fear, is unwilling to return to it.”¹⁵⁴

Neither the Convention nor most of the national legislations define persecution. The Supreme Court of Canada in *Chan v. Canada (Minister of Employment and Immigration)* stated “[t]he essential question is whether the persecution alleged by the claimant threatens his or her *basic human rights* in a fundamental way.”¹⁵⁵

Freedom of conscience is an intrinsic part of a person’s identity and dignity, and its violation may produce unbearable consequences. It is so fundamental that states often confers it a constitutional and unremitting protection.”¹⁵⁶ As Justice de Montigny stated “... if freedom of conscience and opinion is to be taken seriously, it must inform the way with refugee claimants who have fled their countries of origin because they object to military service.”¹⁵⁷

The HRC in its latest decision relating to the Republic of Korea clearly stated that the conviction and sentencing of two conscientious objectors based on their religious beliefs constituted an interference with their right to manifest their religion. It can therefore be argued that their right to object is protected by international human rights instruments as one deriving from freedom of conscience.

¹⁵³ Paragraph 173 of the Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees (“UNHCR Handbook) of the United Nations High Commissioner for Refugees.

¹⁵⁴ Footnote 151.

¹⁵⁵ Footnote 147, *Chan v. Canada* (emphasis added), paragraph 70; *Canada (Attorney General) v. Ward*, [1993] 2 S.C. R. 689, 733; *Canada (Minister of Employment and Immigration) v. Mayers*, 1992 CanLII 2412; *Cheung v. Canada (Minister of Employment and Immigration (C.A.))*, 1993 CanLII 2946 (F.C.A.).

¹⁵⁶ Footnote 24, *R. v. Big M Drug Mart Ltd.*

¹⁵⁷ *Lebedev v. Minister of Citizenship and Immigration*, 2007 F.C. 728, paragraph 22.

Additional support for the recognition of the right to conscientious objection is found in the more recent UNHCR guidelines on International Protection in regards to religion-based refugee claims.¹⁵⁸ The guidelines indicate that pursuant to paragraph 170 of the UNHCR Handbook, “where military service is compulsory, refugee status may be established if the refusal is based on genuine political, religious, or moral convictions, or valid reasons of conscience.” The guidelines further indicate that while prosecution for a law of general application does not constitute persecution, in the case of conscientious objection, it may be persecutory when “it impacts differently on particular groups ...or where the military service cannot reasonable be expected to be performed by the individual because of his or her genuine beliefs or religious convictions.”¹⁵⁹

It follows that the non-recognition of a genuine conscientious objector’s right to oppose military service, under the threats of coercion or punishment, impairs his basic human rights of freedom to manifest his religion or belief in a fundamental way due to the fact that the objector faces being coerced to participate in the killing of other human beings against his conscience, or faces punishment. Coercing the objectors to act against their genuine conscientious belief is to force them to abdicate their own dignity and worth. If freedom of religion is a basic human right, “ individuals should not be forced, on pain of imprisonment, to comport themselves in a way that violates their fundamental beliefs.”¹⁶⁰ Accordingly, in countries where conscientious objection is not recognized as valid grounds for exemption from military service and where individuals are forced to serve or face punishment for their refusal, such coercion or punishment may constitute persecution. The Canadian Federal Court of Appeal in *Al-Maisri v. Canada* – where the claimant, a citizen of Yemen, refused to serve in the Yemeni Army or to participate in military action in support of Saddam Hussein’s invasion of Kuwait, held that the war to which he objected was a military operation that was condemned by the United Nations and ruled that “[...] the punishment for desertion which would likely be visited upon the appellant if he were

¹⁵⁸ Guidelines on International Protection: Religion-Based Refugee Comes under Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees, HCR/GIP/04/06, 28 April 2004, paragraphs 25 and 26.

¹⁵⁹ *Idem*; Footnote 13, page 72.

¹⁶⁰ Footnote 1, *Hinzman v. Canada* (FC), paragraph 211.

returned to Yemen, *whatever that punishment might be, would amount to persecution of which the appellant has a well-founded fear.*”¹⁶¹

Since freedom of religion is a basic human right, to coerce a person, under threat of penalty, to take the life of another persons despite his sincere and genuine conscientious objection is a violation of his basic human rights in a fundamental way and constitutes persecution on, at least, political opinion and therefore is capable of triggering international protection. The applicant’s subjective and objective fear of persecution may clearly be based on the unwillingness and inability of the state to grant protection due to non-recognition of this right.

Currently, refugee claims by deserters and draft evaders based on their refusal to participate in military service are considered as fear of prosecution and not as fear of persecution unless the conditions of service are themselves persecutory the punishment for their refusal is excessive or disproportionate or where the refusal is based on the grounds that the service would required them to participate in gross human rights abuses, grave breaches of international humanitarian law or crime of aggression and/or “[n]on-defensive incursions into foreign territory.”¹⁶²

In determining when deserters or draft-evaders’ claims based on selective conscientious objection can be considered courts referred to paragraph 171 of the UNHCR Handbook and proposed many interpretations on the scope of its protection.¹⁶³

Paragraph 171 provides that:

“Not every conviction, genuine though it may be, will constitute a sufficient reason for claiming refugee status after desertion or draft-evasion. It is not enough for a person to be in disagreement with his government regarding the political justification for a particular military action. Where, however, the type of military action, with which an individual does not wish to be associated, is condemned by the international community as contrary to basic rules of human conduct,

¹⁶¹ *Al-Maisri v. Canada (Minister of Employment and Immigration)*, [1995] F.C.J. No. 642, paragraph 6. (Emphasize added);

¹⁶² Footnote 116, Sepet et al. case; Krotov v. Secretary of State of Home Department, [2004] EWCA Civ 69, paragraph 18; James Hathaway, *The Law of Refugee Status*, Markham: Butterworths, 1991, pages 180 & 181 as quoted in *Al-Maisri v. Canada*, footnote 160; Footnote 38, E/CN.4/2006/51, paragraph 59.

¹⁶³ Footnote 1, Footnote 22, Footnote 116.

punishment for desertion or draft-evasion could, in the light of all other requirements of the definition, in itself be regarded as persecution. “

Courts have often interpreted “military actions contrary to basic rules of human conducts” as conducts triggering exclusion under article 1F) of the Refugee Convention and requested proof of the risk facing the objector, had he not refused, of participating in conduct susceptible of excluding him from the protection of the Convention. The reasoning adopted by the courts is that it would be extremely unfair and contrary to the spirit of the Convention if, on the one hand, it would be possible to exclude a person compelled to participate in military action contrary to basic rules of human conducts and, on the other hand, it would not be possible to include him when his refusal to participate in such conduct would entail punishment.¹⁶⁴ While this is indisputably reasonable, it is the requirement of demonstrating a risk for the personal participation of the objector in such conduct, sufficient to exclude him from the Refugee Convention, that is troubling. As Justice de Montigny stated in *Lebedev v The Minister of Citizenship and Immigration*, in regard to “on the grounds” violations of international humanitarian law “[t]he more restrictive we are in defining what it means to be complicit in this context, the more difficult it will be for such claimants to claim refugee status. [...] the notion of direct participation may well be too narrow if we are to take into account the language of paragraph 171 of the UNHCR Handbook, which says ‘the type of military action, with which an individual does not wish *to be associated*...’”¹⁶⁵

Moreover, applying this interpretation to crime against peace means denying protection to every one except those individuals “involved at the policy-making level”¹⁶⁶ and by the same token, denying protection to foot soldiers since their participation in a military operation considered as a crime against peace would be insufficient to justify their exclusion.¹⁶⁷ While this may be true in law if a soldier was to be charged of crime against peace before an international or national criminal court or in determining his exclusion

¹⁶⁴ Footnote 116.

¹⁶⁵ Footnote 157, paragraph 86. (Emphaize added)

¹⁶⁶ Footnote 1, *Hindzan v. Canada (FC)*, paragraph 157

¹⁶⁷ *Idem*, paragraphs 158 and 159; Footnote 156, paragraph 85; Footnote 116, Sepet case; Footnote 162, the Krotov case.

from the Convention as Martin Jones argues the level of complicity required in cases of exclusion cannot be applied *mutatis mutandis* to an evaluation of the applicability of the exemption provided in paragraph 171 of the UNHCR Handbook.¹⁶⁸

The court's ruling of the Canadian Federal Court of Appeal in *Zolfagharkhani v. Canada* supports this argument. It the latter, ruled that the participation of a paramedic, who would be called to treat his fellow co-soldiers or victims (enabling their interrogation) was sufficient "material assistance" to enable the exception to apply. While the Court declined to determine if such participation could exclude the applicant from the Convention pursuant to Article 1 F), it considered that the applicant's participation as a paramedic was reasonably sufficient to raise an issue of conscience.¹⁶⁹ In reality, it is highly improbable that the applicant could be charged criminally for grave violations of international humanitarian law for his participation in a war where his country used chemical weapons and for which he played no role other than serve as a paramedic. Indeed, there is even doubt as to whether his conduct, had he not refused to participate, would be sufficient to exclude him from the Convention.

When analyzing paragraph 171 of the UNHCR Handbook, it is important to note that it concerns only selective objectors, while paragraph 170 is phrased broadly to include all conscientious objectors, universal or selective.

Paragraphs 168 to 174 of the Refugee Handbook address the issue of deserters and other persons evading military service. It states, first and foremost, that deserters or draft-evaders are individuals subject to the protection of the Convention, as any others, if they have a well-founded fear of persecution on grounds of race, religion, nationality, membership of a particular social group or political opinion and are unable or unwilling to avail themselves of the protection of their country. Deserters or draft-evaders will be prevented from seeking refugee status if the *only* reason from leaving their country or being outside it is their "*dislike of military service or fear of combat.*"¹⁷⁰ This means that

¹⁶⁸ Center for Refugee Studies, Working Paper Series No. 2, Beyond Conscientious Objection: Canadian Refugee Jurisprudence on Military Service Evasion, Martin Jones, York University, 2005.

¹⁶⁹ Footnotes 133.

¹⁷⁰ Footnote 151, paragraph 168

deserters and draft-evaders are not excluded or included *ipso facto* from the Convention, but as for all other individuals, an assessment of all the circumstances surrounding their claim must be conducted.¹⁷¹

A deserter or draft evader *may seek* refugee status if:

- a) Notwithstanding his status he has a well-founded fear of persecution based on one of the five grounds. (Par.168) *or*
- b) Can demonstrate that he would suffer disproportionately severe punishment for desertion or draft evasion or for other reasons based on one of the five grounds. (Par. 169) *or*
- c) When it can be shown that the “performance of military service would have required his participation in military action contrary to *his genuine* political, religious or moral convictions, or to valid reasons of conscience.” (Par. 170)¹⁷²

It is important to consider the construction of paragraph 170. By stating that there are “also cases where the necessity to perform military service may be the sole ground for a claim to refugee status” it clearly offers a third exception. Also, by its wording it covers both universal and selective objections. Furthermore, it focuses the debate on the impact the objector’s participation on his conscience based on his own assessment of both his participation and the nature of the military action and not upon an accurate legal determination of the compliance of the military action with international norms.

When paragraph 171 states that not every conviction, genuine though it may be, will constitute a sufficient reason for claiming refugee status, it automatically implies that some convictions are sufficient. Paragraph 171 goes on to exclude political convictions based *only* on a disagreement with the political justification to wage a war. This addresses the same kind of issues that were raised in *Welsh v. United States* on the interpretation of the exclusion of persons with “essentially political, sociological, or philosophical views or

¹⁷¹ Footnote 133.

¹⁷² Emphasize added; *Bedjaoui v. Canada* (Minister of Citizenship and Immigration), 2005 FC 1230, paragraph 12 (not overruled by the F.C.A.).

a merely personal moral code””. Justice Black for the majority stated that the intention of the provisions was to exclude:

“[t]hose whose beliefs are *not deeply* held and those whose objection to war does not rest *at all* upon moral, ethical, or religious principle but instead rests *solely upon* considerations of policy, pragmatism, or expediency”¹⁷³

Therefore, the aim of paragraph 171 is to qualify the intensity of the belief that may in part be rooted in political grounds; it only excludes the one based *solely* upon disagreement with foreign or national policy. This might be what the Canadian Federal Court of Appeal envisaged when it referring to “a claimant’s political motivation cannot *alone* govern any decision as to refugee status.”¹⁷⁴

While in *Zolfagharkhani v. Canada* and *Al-Maisri v. Canada* the Federal Court of Appeal ruled both military actions as condemned by the international community, it nevertheless recognized the right to selective objection. In *Zolfagharkhani v. Canada*, the applicant refused to participate in military action because he perceived his participation as a paramedic, in a war involving the use of chemical weapons as immoral despite having served previously for 27 months as an active soldier, while in *Al-Maisri v. Canada* the claimant opposed to participate as a foot soldier in a war of aggression.¹⁷⁵

It is important to distinguish between the legitimacy of a claimant’s well-founded fear of persecution and the validity of his claim as a conscientious objector. As in all cases involving refugee claims, the applicant’s subjective fear of persecution must be objectively supported.¹⁷⁶ However, as to the determination of the claimant’s status as a conscientious objector, the issue is the genuineness of his belief. In this sense, the requirement in paragraph 171 of a higher degree of objection than a mere disagreement with state policy may require decision-makers to evaluate if the military action opposed by the claimant is one he may consider contrary to basic rules of human conducts. The reference to military actions condemned by the international community, interpreted with time as contrary to

¹⁷³ (Emphasize added)

¹⁷⁴ Footnote 133, paragraph 15; Footnote 13, page 71.

¹⁷⁵ Footnote 133; Footnote 161, *Al-Maisri v. Canada*.

¹⁷⁶ Footnote 155, *Canada (Attorney General) v. Ward*, paragraph 11.

international norms,¹⁷⁷ is a tool for evaluating the objectiveness of the justification of the objector's belief to distinguish it from one limited to a "disagreement with his government regarding the political justification for a particular military action."¹⁷⁸ Therefore, a favorable finding of the court should not be restricted to only those cases where there is a clear or unanimous condemnation or violations of international norms but also when the objector's subjective belief can be considered objectively reasonable when supported by "objective serious legal reservations" on the legality of the military action within the international community.¹⁷⁹ Otherwise, the central issue is displaced from the impact on the holder of the right to the object of the objection. It makes the military action the subject of the issue notwithstanding if the objector opposes it for conscientious objection.

¹⁷⁷ *B v. Secretary of State for the Home Department*, [2003] UKIAT 20, paragraph 44.

¹⁷⁸ Footnote 151, paragraph 171.

¹⁷⁹ Footnote 86.

5 Conclusion

The right to conscientious objection to military service derives from the right to freedom of thought, conscience or religion, a right protected internationally, regionally and domestically. The right to freedom of conscience is fundamental and when considering the crucial role it plays in the identity of the person and his vision of his own dignity and worth the words of Justice Tanaka in his opinion on the inclusion within the United Nations Charter of the principles of equality before the law and non-discrimination may be of interest and explain why an individual may found strength in abiding by his own inner law above all others.

“A State or States are not capable of creating human rights by law or by convention; they can only confirm their existence and give them protection. The role of the State is no more than declaratory...Human rights always existed with the human being. They existed independently of, and before, the State....”¹⁸⁰

As we have seen pacifists’ right to conscientious objection has been widely implemented around the world as evidenced by the fact that many states have abolished conscription and opted for professional armies and/or adopted specific legislations on the issue. However, at least fifty-one countries where conscription is enforced have no legal provisions in respect of conscientious objectors who have no other choice than being coerced into acting against their conscience, being punished or being forced into exile. Also, many countries that have opted for professional armies have no legislation allowing active soldiers to claim conscientious objection after induction. Furthermore, the vast majority of countries deny conscripts or voluntary soldiers the right to selective objection

¹⁸⁰ Footnote 54, page 1096

in part on the grounds that it offends the principle of equality and that it would be impossible to ensure a fair decision process of exemption.

While many of these arguments may represent real problematic, their solutions do not lie in a denial of fundamental rights but in the development and implementation of mechanisms to ensure a fair decision-process without impairing freedom of conscience while still ensuring national security. The possibility of creating alternative service whereby citizens can fulfill their duties and contribute to the collective interest would be a viable solution and a proportionate means to achieve the legitimate aim. Fraudulent attempts by insincere claimants exist in all sectors of activity where states grant exemptions or benefits; however, the possibility of abuses by some should not impair the legitimate right of genuine claimants.

As demonstrated earlier many of the arguments against the right to selective objectors stem from the fact that the focus is on the nature of the military action to which the conscientious objector is opposed rather than on the impact the objector's participation in any war would have on his right to freedom of conscience. Conscientious objection involves a complex assessment process on the part of the objectors of many factors, which may include political concerns, whereby he conscientiously draws the line and takes a stand against his participation in a military conflict, be it general or conflict specific, and consider punishment or exile a lesser evil than committing murder. It is by nature an assessment and a decision that only the objectors can take. Whereas this subjective assessment can lead to abuses and mistakes, mechanisms can be implemented for assessing the genuineness of the objector' claim, including inquiring into the justification of his belief. The aim is not to determine if it is true, but rather if the subjective belief of the claimant is objectively reasonable.

Therefore, I would suggest that the more decision-makers focus on the impact the perception of his participation in a military action has on his conscience rather than on the nature of the military action *per se*, the higher the objector's chances for national protection. The more decision-makers consider the holder of the right as central to the issue the less reason there is to distinguish between pacifists and selective objectors; this increases their chances to obtain national protection.

Considering that conscientious objection is a legitimate manifestation of one's right to freedom of religion or belief, its non-recognition under threats of punishment or coercion to act against one conscience constitutes a violation of the claimant's basic human rights in a fundamental way and could amount to persecution and thereby trigger international protection. Therefore, the more states realize that denial of objectors' right constitutes a violation of their basic human rights in a fundamental way, the greater the objectors' chances of obtaining international protection.

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5.1.5 National Jurisdiction

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Annexes

5.4 Annex A: List of Member States of the United Nations, State Parties to the ICCPR and State Parties to the Optional Protocol.

	Country	MUN	ICCPR/(Ratification, Accession, Succession)	Optional Protocol
1	Afghanistan	19/11/46	24/01/83	
2	Albania	14/12/55	4/10/91	4/10/07
3	Algeria	8/10/62	12/12/89	12/9/89
4	Andora	28/07/93	22/09/06	22/09/06
5	Angola	1/12/76	10/1/92	10/1/92
6	Antigua and Barbuda	11/11/81		
7	Argentina	24/10/45	8/8/96	8/8/86
8	Armenia	2/3/92	23/06/93	23/06/93
9	Australia	1/11/45	13/08/80	25/09/91

10	Austria	14/12/55	10/9/78	10/12/87
11	Azerbaijan	2/3/92	13/08/92	27/11/01
12	Bahamas	18/09/73		
13	Bahrain	21/09/71	20/09/06	
14	Bangladesh	17/09/74	6/9/00	
15	Barbados	9/12/66	5/1/73	5/1/73
16	Belarus	24/10/45	12/11/73	30/09/92
17	Belgium	27/12/45	21/04/83	17/05/94
18	Belize	25/09//81	10/6/96	
19	Benin	20/09/60	12/3/92	12/3/92
20	Bhutan	21/09/71		
21	Bolivia	14/11/45	12/8/82	12/8/82
22	Bosnia and Herzegovina	22/05/92	1/9/93	1/3/95
23	Botswana	17/10/66	8/9/00	
24	Brazil	24/10/45	24/01/92	
25	Brunei Darussalam	21/09/84		
26	Bulgaria	14/12//55	21/09/70	26/03/92
27	Burma/Myanmar	19/04/48		4/1/99
28	Burkina Faso	20/09/60	4/1/99	
29	Burundi	18/09/62	9/5/90	

30	Cambodia	14/12/55	26/05/92	
31	Cameroon	20/09/60	27/06/84	27/06/84
32	Canada	9/11/45	19/05/76	19/05/76
33	Cape Verde	16/09/75	6/8/93	19/05/00
34	Central African Rep.	20/09/60	8/5/81	8/5/81
35	Chad	20/09/60	9/6/95	9/6/95
36	Chile	24/10/45	10/2/72	27/05/92
37	China	24/10/45		
38	Colombia	5/11/45	29/10/69	29/10/69
39	Comores	12/11/75		
40	Congo	20/09/60	5/10/83	5/10/83
41	Costa Rica	2/11/45	29/11/68	29/11/68
42	Côte d'Ivoire	20/09/60	26/03/92	5/3/97
43	Croatia	22/05/92	12/10/92	12/10/95
44	Cuba	24/10/45		
45	Cyprus	20/09/60	2/4/69	15/04/92
46	Czech Republic	19/01/93	22/02/93	11/2/93
47	Democratic Republic of the Congo	20/09/60	1/11/76	1/11/76
48	Democratic Republic of Korea (North)	17/09/91	14/09/81	

49	Denmark	24/10/45	6/1/72	6/1/72
50	Djibouti	20/09/77	5/11/02	5/11/02
51	Dominica	18/12/78	17/06/93	
52	Dominican Republic	24/10/45	4/1/78	4/1/78
53	Ecuador	21/12/45	6/3/69	6/3/69
54	Egypt	24/10/45	14/01/82	
55	El Salvador	24/10/45	30/11/79	6/6/95
56	Equatorial Guinea	12/11/68	25/09/87	25/09/87
57	Eritrea	28/05/93	22/01/02	
58	Estonia	17/09/91	21/10/91	21/10/91
59	Ethiopia	13/11/45	11/6/93	
60	Fiji	13/10/70		
61	Finland	14/12/55	19/08/75	19/08/75
62	France	24/10/45	4/11/80	17/02/84
63	Gabon	20/09/60	21/01/83	
64	Gambia	21/09/65	22/03/79	9/6/88
65	Georgia	31/12/92	3/5/94	3/5/94
66	Germany	18/09/73	17/12/73	25/08/93
67	Ghana	8/3/57	7/9/00	7/9/00
68	Greece	25/10/45	5/5/97	5/5/97

69	Grenada	17/09/74	6/9/91	
70	Guatemala	21/11/45	5/5/92	28/11/00
71	Guinea	12/12/58	24/01/78	17/06/93
72	Guinea-Bissau	17/09/74		
73	Guyana	20/09/66	15/02/77	10/5/93
74	Haiti	24/10/45	6/2/91	
75	Honduras	17/12/45	25/08/97	7/6/05
76	Hungary	14/12/55	17/01/74	7/9/88
77	Iceland	19/11/46	22/08/79	22/08/79
78	India	30/10/45	10/4/79	
79	Indonesia	28/09/50	23/02/06	
80	Iran (Islamic Republic of).	24/10/45	24/06/75	
81	Iraq	21/12/45	25/01/71	
82	Ireland	14/12/55	8/12/89	8/12/89
83	Israel	11/5/49	3/10/91	
84	Italy	14/12/55	15/09/78	15/09/78
85	Jamaica	18/09/62	3/10/75	3/10/75
86	Japan	18/12/56	21/06/79	
87	Jordan	14/12/55	28/5/75	
88	Kazakhstan	2/3/92	24/01/06	

89	Kenya	16/12/63	1/5/72	
90	Kiribati	14/09/99		
91	Kuwait	14/05/63	21/05/96	
92	Kyrgyzstan	2/3/92	7/10/94	7/10/94
93	Lao People's Democratic Republic	14/12/55		
94	Latvia	17/09/91	14/04/92	22/06/94
95	Lebanon	24/10/45	3/11/72	
96	Lesotho	17/10/66	9/9/92	6/9/00
97	Liberia	2/11/45	22/09/04	
98	Libyan Arab Jamahiriya	14/12/55	15/05/70	16/05/89
99	Liechtenstein	18/09/90	10/12/98	10/12/98
100	Lithuania	17/09/91	20/11/91	20/11/91
101	Luxembourg	24/10/45	18/08/83	18/08/83
102	Macedonia The Republic of	8/4/93	18/01/94	12/12/94
103	Madagascar	20/09/60	21/06/71	21/06/71
104	Malawi	1/12/64	22/12/93	11/6/96
105	Malaysia	17/09/57		
106	Maldives	21/09/65	19/09/06	19/09/06

107	Mali	28/09/60	16/07/74	24/10/01
108	Malta	1/12/64	12/9/90	13/09/90
109	Marshall Islands	17/09/91		
110	Mauritania	27/10/61	17/11/04	
111	Mauritius	24/04/68	12/12/73	12/12/73
112	Mexico	7/11/45	23/03/81	15/03/02
113	Micronesia, Federated State of	17/09/91		
114	Moldova	2/3/92	26/01/93	23/01/08
115	Monaco	28/05/93	28/08/97	
116	Mongolia	27/10/61	18/11/74	16/04/91
117	Montenegro	28/06/06	23/10/06	23/10/06
118	Morocco	12/11/56	3/5/79	
119	Mozambique	16/09/75	21/07/93	
120	Namibia	23/04/90	28/11/94	28/11/94
121	Nauru	14/09/99		
122	Nepal	14/12/55	14/05/91	14/05/91
123	Netherlands	10/12.45	11/12/78	11/12/78
124	New Zealand	24/10/45	28/12/78	26/05/89
125	Nicaragua	24/10/45	12/3/80	12/3/80
126	Niger	20/09/60	7/3/86	7/3/86

127	Nigeria	7/10/60	29/07/93	
128	Norway	27/11/45	13/09/72	13/09/72
129	Oman	7/10/71		
130	Pakistan	30/09/47		
131	Palau	15/12/94		
131	Panama	13/11/45	8/3/77	8/3/77
133	Papua New Guinea	10/10/75		
134	Paraguay	24/10/45	10/6/92	10/1/95
135	Peru	31/10/45	28/04/78	3/10/80
136	Philippines	24/10/45	23/10/86	22/08/89
137	Poland	24/10/45	18/03/77	7/11/91
138	Portugal	14/12/55	15/06/78	3/5/83
139	Qatar	21/09/71		
140	Republic of Korea (South)	17/09/91	10/4/90	10/4/90
141	Romania	14/12/55	9/12/74	20/07/93
142	Russian Federation	24/10/45	16/10/73	1/10/91
143	Rwanda	11/9/62	16/04/75	
144	Saint Kitts and Nevis	23/09/83		
145	Sait Lucia	18/09/79		
146	Saint Vincent and	16/09/80	9/11/81	9/11/81

	the Grenaldines			
147	Samoa	15/12/76	15/02/08	
148	San Marino	2/3/92	18/10/85	18/10/85
149	Sao Tome and Principe	16/09/75		
150	Saudi Arabia	24/10/45		
151	Senegal	28/09/60	13/02/78	13/02/78
152	Serbia	1/11/00	12/3/01	6/9/01
153	Seychelles	21/09/76	5/5/92	5/5/92
154	Sierra Leone	27/09/61	23/08/96	23/08/96
155	Singapore	21/09/65		
156	Slovakia	19/01/93	28/05/93	28/05/93
157	Slovenia	22/05/92	6/7/92	16/07/93
158	Solomon Islands	19/09/78		
159	Somalia	20/09/60	24/01/90	24/01/90
160	South Africa	7/11/45	10/12/98	28/08/02
161	Spain	14/12/55	27/04/77	25/05/85
162	Sri Lanka	14/12/55	11/6/80	3/10/97
163	Sudan	12/11/56	18/03/86	
164	Suriname	4/12/75	28/12/76	28/12/76
165	Swaziland	24/09/68	26/03/04	

166	Sweden	19/11/46	6/12/71	6/12/71
167	Switzerland	10/9/02	18/06/92	
168	Syrian Arab Republic	24/10/45	21/04/69	
169	Tajikistan	2/3/92	4/1/99	4/1/99
170	Taiwan			
171	Thailand	16/12/46	29/10/96	
172	Timor-Leste	27/09/02	18/09/03	
173	Togo	20/09/60	24/05/84	30/03/88
174	Tonga	14/09/99		
175	Trinidad and Tobago	18/09/62	21/12/78	14/11/90
176	Tunisia	12/11/56	18/03/69	
177	Turkey	24/10/45	23/09/03	24/11/06
178	Turkmenistan	2/3/92	1/5/97	1/5/97
179	Tuvalu	5/9/00		
180	Uganda	25/10/62	21/06/95	14/11/95
181	Ukraine	24/10/45	12/11/73	25/07/91
182	United Arab Emirates	9/12/71		
183	United Kingdom of Great Britain and	24/10/45	20/05/76	

	Northern Ireland			
184	United Republic of Tanzania	14/12/61	11/6/76	
185	United States of America	24/10/45	8/6/92	
186	Uruguay	18/12/45	1/4/70	1/4/70
187	Uzbekistan	2/3/92	28/09/95	28/09/95
188	Vanuatu	15/09/81		
189	Vatican (Holy See)			
190	Venezuela	15/11/45	10/5/78	10/5/78
191	Viet Nam	20/09/77	24/09/82	
192	Yemen	30/09/47	9/2/87	
193	Zambia	1/12/64	10/4/84	10/4/84
194	Zimbabwe	25/08/80	13/05/91	
No of States		192	161	113

Sources for the ICCPR and Optional Protocol: <http://www2.ohchr.org/english/bodies/ratification/4.htm> and <http://www2.ohchr.org/english/bodies/ratification/5.htm>

Source for Members States of the United Nations: <http://www.un.org/members/list.shtml>

5.5 Annex B: Status of the Right to Freedom of Thought, Conscience or Religion

	Country	Freedom of Conscience/Religion/Faith/Belief (Constitution/Bill of Rights)	Sources
1	Afghanistan		
2	Albania	Article 24 of the Constitution: "1. Freedom of conscience and of religion is guaranteed. 2. Everyone is free to choose or to change his religion or beliefs, as well as to express them individually or collectively, in public or private life, through cult, education, practices or the performance of rituals. 3. No one may be compelled or prohibited to take part or not in a religious community or in religious practices or to make his beliefs or faith public."	http://www.servat.unibe.ch/icl/al00000_.html ; State report CCPR/C/ALB/2004/1, 16 February 2004, paragraph 939
3	Algeria	"The Constitution explicitly guarantees the inviolability of freedom of thought, conscience and religion in article 37, which states: 'Freedom of belief and opinion is inviolable.' In particular, the law does not discriminate on grounds of belief or opinion." State Report.	State Report CCPR/C/DZA/3, 7 November 2006 paragraph 310
4	Andorra	Article 5 of the Constitution: The Universal Declaration of Human Rights is binding in Andorra. Article 11: The Constitution guarantees the freedom of ideas, religion and cult, and no one is bound to state or disclose his or her ideology, religion or beliefs.	http://www.andorramania.com/constit_gb.htm
5	Angola	Article 45 of the Constitution: "Freedom of conscience and belief shall be inviolable. The Angolan State shall recognize freedom of worship and guarantee its exercise, provided it does not conflict with public order and the national interest."	http://www.servat.unibe.ch/icl/ao00000_.html
6	Antigua and Barbuda	Article 11 of the Constitution "(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance."	http://pdpa.georgetown.edu/Constitutions/Antigua/antigua-barbuda.html
7	Argentina	Article 14 of the Constitution: "All the inhabitants of the Nation are entitled to the following rights, in accordance with the laws that regulate their exercise, namely: to work and perform any lawful industry; to navigate and trade; to petition the authorities; to enter, remain in, travel through, and leave the Argentine territory; to publish their ideas through the press without previous censorship; to make use and dispose of their property; to associate for useful purposes; to profess freely their religion; to teach and to learn."	http://www.servat.unibe.ch/icl/ar00000_.html
8	Armenia	Article 23 of the Constitution "Everyone is entitled to freedom of thought, conscience, and religion. The freedom to exercise one's religion and beliefs may only be restricted by law on the grounds prescribed in Article 45 of the Constitution."	http://www.armeniaforeignministry.com/htms/conttitution.html
9	Australia		
10	Austria	"For example, according to article 14 of the Basic Law of the State on the General Rights of Citizens of 1867 and article 9 of the European Convention on Human Rights, everybody is	State Report, CCPR/C/AUT/4, 2 November 2006, paragraph 290

		guaranteed the full freedom of religion and conscience."	
11	Azerbaijan	"Pursuant to article 48 of the Constitution and article 1 of the Freedom of Religion Act of 20 August 1992, everyone has the right to freedom of conscience and the right freely to determine their attitude to religion, to worship independently or with others or to practise no religion at all, and to express and disseminate their religious opinions. Religious rites may be freely performed so long as they do not disturb public order or offend public morals."	State Report, CCPR/C/AZE/99/2, 4 May 2000, paragraph 459
12	Bahamas	"Article 22 of the Constitution "(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this Article the said freedom includes freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion of belief in worship, teaching, practice and observance."	http://www.lexbahamas.com/bahconc/ontents.htm
13	Bahrain	"Article 22 of the Constitution "Freedom of conscience is absolute. The State guarantees the inviolability of worship, and the freedom to perform religious rites and hold religious parades and meetings in accordance with the customs observed in the country."	http://servat.unibe.ch/icl/ba00000_.html
14	Bangladesh	Article 39 (1) of the Constitution "Freedom of thought and conscience is guaranteed."	http://www.pmo.gov.bd/constitution/
15	Barbados	Article 19 (1) of the Constitution "Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience and for the purpose of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance."	http://divefree.net/constitution.htm
16	Belarus	"Article 31 of the Constitution [Religion] Everyone shall have the right independently to determine his attitude towards religion, to profess any religion individually or jointly with others, or to profess none at all, to express and spread beliefs connected with his attitude towards religion, and to participate in the performance of acts of worship and religious rituals and rites. Article 33 [Expression] (1) Everyone is guaranteed freedom of thoughts and beliefs and their free expression. (2) No one shall be forced to express his beliefs or to deny them. (3) No monopolization of the mass media by the State, public associations or individual citizens and no censorship shall be permitted."	http://www.servat.unibe.ch/icl/bo00000_.html
17	Belgium	Article 11 of the Constitution "Enjoyment of the rights and freedoms recognized for Belgians should be ensured without discrimination. To this end, laws and decrees guarantee notably the rights and freedoms of ideological and philosophical minorities." Article 19 "Freedom of worship, public practice of the latter, as well as freedom to demonstrate one's opinions on all matters, are guaranteed, except for the repression of offenses committed when using this freedom."	http://www.servat.unibe.ch/icl/be00000_.html
18	Belize	Article 11 of the Constitution "(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others,	http://www.constitution.org/cons/belize.htm

		and both in public and in private, to manifest and propagate his religion or belief in worship teaching, practice and observance.	
19	Benin	Article 23 of the Constitution "Every person has the right to freedom of thought, of conscience, of religion, of creed, of opinion and of expression with respect for the public order established by law and regulations. The exercise of a creed and the expression of beliefs shall take place with respect for the secularity of the state. The institutions and the religious or philosophical communities shall have the right to develop without hindrances. They shall not be subject to the guardianship of the state. They shall regulate and administer their affairs in an autonomous manner."	http://www.chr.up.ac.za/hr_docs/constitutions/docs/BeninC(englishsummary)(rev).doc ; State Report, CCPR/C/BEN/2004/1/Add.1, 17 August 2004, paragraph 76
20	Bhutan	Article 7 of the Draft Constitution "(4) A Bhutanese citizen shall have the right to freedom of thought, conscience and religion. No person shall be compelled to belong to another faith by means of coercion or inducement."	http://www.constitution.bt/draft_constitution_3rd_en.pdf
21	Bolivia	Article 7 b) of the Constitution "A la libertad de conciencia, pensamiento y religión; a emitir y a recibir libremente ideas, opiniones, creencias e informaciones por cualquier medio de difusión."; "The freedoms of thought, opinion, peaceful assembly and free association are embodied in the Constitution and laws of the Republic and they are widely and effectively exercised in practice." State Report, CCPR/C/63/Add.4, 22 November 1996, paragraph 71	http://pdba.georgetown.edu/Constitutions/Bolivia/consboliv2005.html#parte1titulo2 ; State Report, CCPR/C/63/Add.4, 22 November 1996, paragraph 71
22	Bosnia and Herzegovina	Paragraph 3 Enumeration of Rights (g) Freedom of thought, conscience, and religion...	http://www.servat.unibe.ch/icl/bk00000_.html
23	Botswana	"Section 11 (1) of the Constitution of Botswana guarantees freedom of conscience. It states that 'except with his consent, no person shall be hindered in the enjoyment of his freedom of conscience and for the purpose of this Section, the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone, in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance'."	State Report, CPR/C/BWA/1, 2 May 2007, paragraph 341; http://www.botswanaembassy.org/pdf/constitution.pdf
24	Brazil	"Freedom of conscience and freedom of religion are also guaranteed by Brazil's normative system. Because Brazil is a secular state, the country maintains no links with any established Church. The separation of the State from religious institutions creates a propitious environment for the freedom to practice cults and rituals. The inviolability of the freedom of conscience and religion is enshrined in the Constitution, as is the freedom to exercise religious rites and the protection of religious cults and religious ceremonies (article 5, subsection VI). Law no. 4898/65 defines any actions against the freedom of conscience and religion, as well as free exercise of religious rites, as an abuse of power."	State Report, CCPR/C/BRA/2004/2, 11 April 2005, paragraph 254.
25	Brunei Darussalam		
26	Bulgaria	Article 37 (1) of the Constitution " The freedom of conscience, the freedom of thought, and the choice of religion and of religious or atheistic views are inviolable. The state shall assist the	http://www.servat.unibe.ch/icl/bu00000_.html

		maintenance of tolerance and respect among the believers from different denominations, and among believers and non-believers."	
27	Burma/ Myanmar	Article 156 of the Constitution "(a) Every citizen shall have the right to freedom of thought, and of conscience, and to freely profess any religion...."	http://www.thailawforum.com/databa se1/constmyanmar4.html
28	Burkina Faso	Article 7 of the Constitution "La liberté de croyance, de non croyance, de conscience, d'opinion religieuse, philosophique, d'exercice de culte, la liberté de réunion, la pratique libre de la coutume ainsi que la liberté de cortège et de manifestation sont garanties par la présente Constitution, sous réserve du respect de la loi, de l'ordre public, des bonnes moeurs et de la personne humaine."	http://www.legiburkina.bf/codes/cons titution du burkina faso.htm#TITR E%20I
29	Burundi	Article 31 of the Constitution "La liberté d'expression est garantie. L'État respecte la liberté de religion, de pensée, de conscience et d'opinion."	http://burundi.news.free.fr/actualites/ constitutionbu.html
30	Cambodia	Article 31 of the Constitution "The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights, the covenants and conventions related to human rights, women's and children's rights."; Article 43 – "Khmer citizens of either sex shall have the right to freedom of belief. Freedom of religious belief and worship shall be guaranteed by the State on the condition that such freedom does not affect other religious beliefs or violate public order and security. Buddhism shall be the State religion."	http://servat.unibe.ch/icl/cb00000_.ht ml#A024
31	Cameroon	Article 1 of the Constitution "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."	http://confinder.richmond.edu/admin/ docs/Cameroon.pdf
32	Canada	Article 2 a) of the Constitution " Everyone has the following fundamental freedoms: a) freedom of conscience and religion;" Charter of Rights and Freedom."	http://laws.justice.gc.ca/en/charter/
33	Cape Verde	Article 48 (1) of the Constitution "The freedom of conscience, religion and cult shall be inviolable and everyone shall have the right individually and collectively, to follow a religion or not, to have a religious conviction of his own choice, to participate in the act of cult and freely express his faith and to disseminate his doctrine or conviction, provided that he does not cause harm to the right of others or to the common good."	http://confinder.richmond.edu/admin/ docs/CapeVerde.pdf
34	Central African Rep.	"Article 58 of the Criminal Code prohibits all acts that infringe freedom of thought, conscience and religion."	State Report, CCPR/C/CAF/2004/2, 21 September 2005, paragraph 255
35	Chad	Constitution Chad 1996, Article 27 "Les libertés d'opinion et d'expression, de communication, de conscience, de religion, de presse, d'association, de réunion, de circulation, de manifestations et de cortèges sont garanties à tous"	http://www.cefod.org/Fichiers%20we b/Constitution%20Tchadienne.html# _Toc486737717
36	Chile	"Freedom of conscience, the expression of any belief and the free exercise of any form of worship not inconsistent with public morals, customs or order are constitutionally guaranteed, as is the freedom to teach any of the above (arts. 19, paras. 6 and 11)."	State Report, CPR/C/95/Add.11, 3 December 1998, paragraph 196
37	China	Article 36 (1) of the Constitution " Citizens of the People's Republic of China enjoy freedom of	http://www.servat.unibe.ch/law/icl/ch

		religious belief."	00000 .html
38	Colombia	"1991 Political Constitution Article 18 - Freedom of conscience. Freedom of conscience is guaranteed. Everyone shall have the right to hold convictions or beliefs without interference. No one shall be compelled to reveal them or be obliged to act against his conscience."	State Report, CCPR/C/COL/2002/5, 18 September 2002, paragraph 795
39	Comores	Constitution de l'Union des Comores "l'égalité de tous en droits et en devoirs sans distinction de sexe, d'origine, de race, de religion ou de croyance"	http://droit.francophonie.org/df-web/publication.do?publicationId=4342
40	Congo	"Article 26 of the Constitution of 15 March 1992 provides that: "Freedom of belief and conscience and the freedom to profess religious or philosophical beliefs shall be inviolable."	State Party Report, CCPR/C/63/Add.5, 5 May 1997, paragraph 60
41	Costa Rica	"The Constitution duly guarantees the right to freedom of thought, conscience and religion, as stated in the previous report."	State Report, CCPR/C/CRI/5, 6 November 2006, paragraph 235
42	Côte d'Ivoire	Article 9: of the Constitution "La liberté de pensée et d'expression, notamment la liberté de conscience, d'opinion religieuse ou philosophique sont garanties à tous, sous la réserve du respect de la loi, des droits d'autrui, de la sécurité nationale et de l'ordre public."	http://droit.francophonie.org/df-web/publication.do?publicationId=235
43	Croatia	Article 40 of the Constitution "Freedom of conscience and religion and freedom to manifest religion and other convictions shall be guaranteed."	http://www.servat.unibe.ch/icl/hr00000.html ; See State Report, CCPR/C/HRV/99/1, 7 March 2000, paragraphs 401 to 432
44	Cuba	Article 55 of the Constitution "The state, which recognizes, respects and guarantees freedom of conscience and of religion, also recognizes, respects and guarantees every citizen's freedom to change religious beliefs or to not have any, and to profess, within the framework of respect for the law, the religious belief of his preference."	http://www.cubanet.org/ref/dis/const_92_e.htm
45	Cyprus	Article 18 (1) of the Constitution "Every person has the right to freedom of thought, conscience and religion."	http://www.servat.unibe.ch/icl/cy00000.html
46	Czech Republic	Article 15 of the Charter of Fundamental Rights and Freedoms "(1) Freedom of thought, conscience and religious conviction is guaranteed. Everybody has the right to change his or her religion or faith, or to have no religious conviction."	http://confinder.richmond.edu/country.php
47	Democratic Republic of the Congo	Article 22 Constitution of 2006, "Toute personne a droit à la liberté de pensée, de conscience et de religion." And "The right to freedom of thought, conscience and religion is recognized, in particular by the Constitution, which, in article 26, paragraphs 1 and 2, provides that: 'In the Democratic Republic of the Congo there is no State religion. Everyone has the right to freedom of thought, conscience and religion. Everyone has the right to manifest his religion and beliefs, alone or in a community, in public and in private, through worship, teaching, practice, observance of rites and a religious life, subject to respect for the law, public order and public morality. State Party Report, CCPR/C/COD/2005/3, 3 May 2005, paragraph 192	http://www.presidentrdc.cd/constitution.html ; State Party Report, CCPR/C/COD/2005/3, 3 May 2005, paragraph 192
48	Democratic	Article 68 of the Constitution "Citizens have freedom of religious beliefs. This right is granted	http://www.novexcen.com/dprk_const

	Republic of Korea (North)	by approving the construction of religious buildings and the holding of religious ceremonies."	itution_98.html
49	Denmark	Article 70 of the Constitution "No person shall for reasons of his creed or descent be deprived of access to complete enjoyment of his civic and political rights, nor shall he for such reasons evade compliance with any common civic duty." ; Freedom of religion, Constitution of 1953 (art. 67) "The citizens shall be entitled to form congregations for the worship of God in a manner consistent with their convictions, provided that nothing at variance with good morals or public order shall be taught or done." "	http://www.servat.unibe.ch/icl/da00000_.html ;
50	Djibouti	Article 11 of the Constitution "Everyone shall have the right to freedom of thought, conscience, religion, worship and opinion in conformity with the order established by law and the regulations."	http://www.adi.dj/constitut/constitut_dj.htm
51	Dominica	Article 9 (1) of the Constitution "Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance."	http://dominicacompanies.com/dominica/constitution/const.html#9
52	Dominican Republic	"The freedom of worship and of conscience is enshrined in the Constitution, article 8, Paragraph 9."	State Report, CCPR/C/DOM/99/3, 27 April 2000, paragraph 95
53	Ecuador	"Article 22 (7) of the Constitution establishes, as one of the guarantees of the rights of persons, 'freedom of conscience and religion both individually and collectively, in public or in private. Persons may freely practise the religion they profess, subject only to such restrictions as the law may prescribe to protect security, public morals or the fundamental rights of other persons.' In addition, article 22 (16) sets out the right of persons "to remain silent about their political and religious convictions. No one may be forced to state them except in the cases provided for by law". State Party Report, CCPR/C/84/Add.6, 1 December 1997, paragraph 204; Article 23 (11) of the Constitution of 1998 "11. La libertad de conciencia; la libertad de religión, expresada en forma individual o colectiva, en público o en privado. Las personas practicarán libremente el culto que profesen, con las únicas limitaciones que la ley prescriba para proteger y respetar la diversidad, la pluralidad, la seguridad y los derechos de los demás."	http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador98.html ; State Party Report, CCPR/C/84/Add.6, 1 December 1997, paragraph 204
54	Egypt	"Every Egyptian Constitution has embodied the principle of freedom of belief and freedom of religious observance, which are established constitutional principles in every civilized country. This means that everyone has the right to adopt a religion or belief of his choice that satisfies his conscience and gives him comfort. It is not permissible for any authority to condemn him for the choice he makes based on his deepest feelings. This principle is enunciated in article 46 of the Constitution as follows: 'The State guarantees freedom of belief and freedom of religious observance.'"; Article 46 of the Constitution " The State shall guarantee the freedom of belief and the freedom of practising religious rights."	State Report, CCPR/C/EGY/2001/3, 15 April 2002, paragraph 478; http://www.egypt.gov.eg/english/laws/Constitution/chp_three/part_one.asp

55	El Salvador	"Article 25. This Constitution recognizes the free exercise of all religions, subject to no other limitation than the requirements of public morals and order. No act of religion shall be used to establish the civil status of persons".	State Party Report, CCPR/C/SLV/2002/3, 12 July 2002, paragraph 546
56	Equatorial Guinea	Constitution, Item 13: Every citizen shall enjoy the following rights and freedoms: f) - Freedom of religion and worship;	http://www.ceiba-guinea-ecuatorial.org/guineecang/nvelle_const.htm
57	Eritrea	Article 19 of the Constitution " Every person shall have the right to freedom of thought, conscience and belief."	http://www.nitesoft.com/eccm/Eritrean_Constitution.htm#A019
58	Estonia	"L'article 40 de la Constitution stipule que toute personne a la liberté de conscience, de religion et de pensée...."; L'article 41 de la Constitution stipule que toute personne a le droit de rester fidèle à ses opinions ou convictions. Nul ne peut être contraint de changer d'opinions ou de convictions. Les convictions ne peuvent être invoquées pour excuser un délit. Nul ne peut être poursuivi légalement en raison de ses convictions."	State Report, CCPR/C/EST/2002/2, 27 May 2002, paragraphs 652 and 6533
59	Ethiopia	Article 27 (1) of the Constitution "Everyone has the right to freedom of thought, conscience and religion. This right shall include the freedom to hold or to adopt a religion or belief of his choice, and the freedom, either individually or in community with others, and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."	http://www.civicwebs.com/cwvlib/constitutions/ethiopia/constitution_1994.htm
60	Fiji	Article 35 of the Constitution "(1) Every person has the right to freedom of conscience, religion and belief."	http://www.servat.unibe.ch/icl/fj00000_.html
61	Finland	"According to section 11 of the Finnish Constitution, the freedom of religion and conscience entails the right to profess and practice a religion, the right to express one's convictions and the right to be a member of or decline to be a member of a religious community."	State Report, CCPR/C/FIN/2003/5, 24 July paragraphs 130 and 247
62	France	Article 2 (1) of the Constitution " France is an indivisible, secular, democratic, and social Republic. It ensures the equality of all citizens before the law, without distinction as to origin, race, or religion. It respects all beliefs..." See also the Déclaration des Droits de l'homme et du citoyen du 26 août 1789, Article 10 "Nul ne doit être inquiété pour ses opinions, même religieuses, pourvu que leur manifestation ne trouble pas l'ordre public établi par la Loi."	http://www.conseil-constitutionnel.fr/textes/d1789.htm
63	Gabon	Article 1 (2) of the Constitution "La liberté de conscience, de pensée, d'opinion, d'expression, de communication, la libre pratique de la religion, sont garanties à tous, sous réserve du respect de l'ordre public"; "The preamble to the Gabonese Constitution guarantees the following rights to all persons, irrespective of race, origin, political opinions, colour, religion or sex, in article 1 of its preliminary Title, 'Fundamental Principles and Rights': right to freedom of development (para. 1); right to freedom of conscience, thought, opinion and expression (para. 2); right to inviolable confidentiality of correspondence (para. 5); right to inviolability of the home (para. 12); and right to freedom of association and political adherence (para. 13).";	http://droit.francophonie.org/df-web/publication.do?publicationId=4268 ; State Report, CCPR/C/128/Add.1, 14 June 1999, paragraph 39
64	Gambia	Article 25 of the Constitution "(b) freedom of thought, conscience and belief, which shall include academic freedom;"	http://www.ncce.gm/files/constitution.pdf

65	Georgia	“Article 19 of the Constitution of Georgia reinforces freedom of speech, thought, conscience, belief and religion, from which no derogation is allowed in state of emergency or state of war in accordance with the article 46 (1) of the Constitution.”	State Report, CCPR/C/GEO/3, 7 November 2006, paragraph 309
66	Germany	Article 4 of the Basic Law “(1) Freedom of faith and of conscience, and freedom to profess a religious or philosophical creed, shall be inviolable..”; The freedom of religion, conscience and confession is guaranteed in Article 4 of the Basic Law.” State Report, CCPR/C/DEU/2002/5, 4 December 2002, paragraph 226.	http://www.servat.unibe.ch/law/lit/th_e_basic_law.pdf ; State Report, CCPR/C/DEU/2002/5, 4 December 2002, paragraph 226.
67	Ghana	Article 21 (1) of the Constitution “(b) freedom of thought, conscience and belief, which shall include academic freedom;”	http://www.ghanaweb.com/GhanaHomePage/republic/constitution.php?id=Gconst5.html
68	Greece	“The Greek Constitution provides for freedom of religion in article 13, which is not subject to revision, according to article 110 (1) of the Constitution “The right to freedom of religion encompasses (a) freedom of religious conscience; and (b) freedom of worship.”	State Report, CCPR/C/GRC/2004/1, 15 April 2004, paragraph 637
69	Grenada	Article 9 (1) of the Constitution “Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practise and observance.”	http://pdba.georgetown.edu/Constitutions/Grenada/gren73eng.html
70	Guatemala	“The Constitution of the State of Guatemala protects the free exercise of all religions; everyone is granted the right to practise his religion or belief in public and in private, through teaching, worship and observance, subject to no restrictions other than respect for public order and for the hierarchy and adherents of other faiths.”	State Report, CCPR/C/GTM/99/2, 5 April 2000, paragraph 317
71	Guinea	Article 7 of the Constitution “Il est libre de croire, de penser et de professer sa foi religieuse, ses opinions politiques ou philosophiques.”	http://droit.francophonie.org/df-web/publication.do?publicationId=4279
72	Guinea-Bissau		
73	Guyana	Article 145 (1) of the Constitution “(1) Except with his own consent, no person shall be hindered in the enjoyment of his of conscience, and for the purposes of this article the said freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance....”; “Article 145 protects the individual from being hindered in the enjoyment of his freedom of conscience, which means freedom of thought and religion or belief and freedom, either alone or in community with others, both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance, except where it is provided by law that such rights are not considered violated in the interest of: (a) National defence, public safety, public order, public morality or public health; or (b) For the purpose of protecting the rights and	http://pdba.georgetown.edu/Constitutions/Guyana/guyana96.html .: State Report, CCPR/C/GUY/99/2, 18 May 1999, paragraph 75.

		freedom of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion; or (c) With respect to standards or qualifications to be required in relation to places of education including any instruction (not being religious instruction) given at such places.” State Report, CCPR/C/GUY/99/2, 18 May 1999, paragraph 75.	
74	Haiti	Article 30 of the 1987 Constitution "All religions and faiths shall be freely exercised. Everyone is entitled to profess his religion and practice his faith, provided the exercise of that right does not disturb law and order."	http://pdba.georgetown.edu/Constitutions/Haiti/haiti1987.html
75	Honduras	Article 77 of the Constitution " Se garantiza el libre ejercicio de todas las religiones y cultos sin preeminencia alguna, siempre que no contravengan las leyes y el orden público.	http://www.honduras.net/honduras_constitution2.html
76	Hungary	Article 60 (1) of the Constitution "In the Republic of Hungary everyone has the right to freedom of thought, freedom of conscience and freedom of religion."	http://www.servat.unibe.ch/law/icl/hu00000_.html
77	Iceland	Article 73 of the Constitution "Everyone has the right to freedom of opinion and belief." “We refer to Iceland’s Second and Third Reports as regards constitutional protection of religious belief. The rights enshrined in Article 18 are protected by Articles 63 and 64 of the Constitution, the wording of which was somewhat modified in 1995, as described in the Third Report, State Report CCPR/C/ISL/2004/4, 28 June 2004, paragraph 95;	http://www.government.is/constitution/ ; State Report CCPR/C/ISL/2004/4, 28 June 2004, paragraph 95;
78	India	Article 25 of the Constitution "Freedom of conscience and free profession, practice and propagation of religion.— (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion." “India chose to be a secular State. Accordingly, article 25 of the Constitution of India lays down the right to freedom of religion. All persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion subject only to public order, morality, health and such other provisions as laid down in the Constitution itself.” State Report, CCPR/C/76/Add.6, 17 June 1996, paragraph 98;	http://lawmin.nic.in/legislative/Art1-242%20(1-88).doc ; State Report, CCPR/C/76/Add.6, 17 June 1996, paragraph 98.
79	Indonesia	Article 29 (2) of the Constitution "The state shall guarantee freedom to every resident to adhere to their respective religion and to perform their religious duties in accordance with their religion and that faith."	http://www.indonesiamission-nv.org/issuebaru/HumanRight/1945cons.htm
80	Iran (Islamic Republic of).	Article 23 of the Constitution "The investigation of individuals' beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief."	http://www.servat.unibe.ch/law/icl/ir00000_.html
81	Iraq	Article 13 of the Interim Constitution of Irak "(F) Each Iraqi has the right to freedom of thought, conscience, and religious belief and practice. Coercion in such matters shall be prohibited."	http://www.servat.unibe.ch/law/icl/iz00000_.html

82	Ireland	Article 44 Constitution as amended in 1992 and 1995 "2.1) Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen."	http://www.servat.unibe.ch/law/icl/ei00000_.html
83	Israel	Basic Law: Human Dignity and Liberty "1. The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state.' ..." 9. "There shall be no restriction of rights under this Basic Law held by persons serving in the Israel Defence Forces, the Israel Police, the Prisons Service and other security organizations of the State, nor shall such rights be subject to conditions, except by virtue of a law, or by regulation enacted by virtue of a law, and to an extent no greater than is required by the nature and character of the service."	http://www.knesset.gov.il/laws/special/eng/basic3_eng.htm
84	Italy	Article 19 of the Constitution "All shall be entitled to profess their religious beliefs freely in any form, individual or in association, to promote them, and to celebrate their rites in public or in private, provided that they are not offensive to public morality."	http://www.vesce.com/constitution/italy-constitution-eng.html
85	Jamaica	Article 21 of the Constitution; "(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance."	State Report, CCPR/C/42/Add.15, 7 March 1997, paragraph 110
86	Japan	Article 19 of the Constitution "Freedom of thought and conscience shall not be violated."	http://www.solon.org/Constitutions/Japan/English/english-Constitution.html#CHAPTER_III
87	Jordan	Article 14 of the Constitution "The State shall safeguard the free exercise of all forms of worship and religious rites in accordance with the customs observed in the Kingdom, unless such is inconsistent with public order or morality."	http://www.kinghussein.gov.jo/constitution_jo.html
88	Kazakhstan	Article 22 of the Constitution "1. Everyone shall have the right to freedom of conscience. 2. The right to freedom of conscience must not specify or limit universal human and civil rights and responsibilities before the state."	http://www.akorda.kz/www/www_akorda_kz.nsf/sections?OpenForm&id_doc=DB26C3FF70789C84462572340019E60A&lang=en&L1=L1&L2=L1-9
89	Kenya	"The Constitution of Kenya stipulates in section 78 thereof that every person in Kenya is entitled, except with his own consent, to his freedom of conscience. This freedom includes freedom of thought and religion, freedom to change his religion or belief, and freedom, either alone or in community with others, to manifest and propagate his religion or belief in public or in private."	State Party, CCPR/C/KEN/2004/2, 27 September 2004, paragraph 150
90	Kiribati	Article 3 of the Constitution "3. Whereas every person in Kiribati is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of	http://www.pacii.org/cgi-pacii/disp.pl/ki/legis/consol_act/cok257/cok257.html?query=cok257

		others and for the public interest, to each and all of the following, namely-...(b) freedom of conscience, of expression and of assembly and association; and..."; Article 11 "11. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance."	
91	Kuwait	Article 35 of the Constitution "Freedom of belief is absolute. The State projects the freedom of Practicing religion in accordance with established customs, provided that it does not conflict with public policy or morals."; "The rights stipulated in this article are enshrined in article 35 of the Kuwaiti Constitution which provides that the State protects the freedom to practising religion in accordance with established customs, provided that it does not conflict with public policy or morals." State Report, CCPR/C/120/Add.1, 3 December 1999, paragraph 233.	http://www.kuwait-info.com/sidepages/state_constitution.asp
92	Kyrgyzstan	"In accordance with article 16 of the Constitution of the Kyrgyz Republic every person has the right to freedom of thought, conscience and religion. Under the Kyrgyz Republic's Law "On freedom of religion and of religious organizations" the freedom of religion guaranteed by the Constitution of the Kyrgyz Republic includes the right of every citizen freely and independently to define his attitude towards religion, to profess any religion alone or jointly with others or to profess none, to change his religious beliefs, and equally to express and disseminate beliefs arising from his attitude towards religion (art. 3)."	State Report, CCPR/C/113/Add.1, 3 December 1999, paragraph 396
93	Lao People's Democratic Republic	Article 30 of the 1991 Constitution "Lao citizens have the right and freedom to believe or not to believe in religions."	http://confinder.richmond.edu/admin/docs/laos.pdf
94	Latvia	"The right of all persons to freedom of thought and conscience is guaranteed by the Constitution, its Article 99 stipulating that "every person shall have a right to freedom of thought, conscience and religion. The church shall be separated from the state". Article 150 of the Criminal Law prescribes liability for the direct or indirect restriction of the rights of a person, the creation of any preferences for persons depending on the attitudes of these persons to religion. Likewise the Criminal Law (Article 151) prescribes liability for intentional interference with religious rituals, if the said rituals are not in violation of the law and are not related to the violation of personal rights."	State Report, CCPR/C/LVA/2002/2, 22 November 2002, paragraph 259.
95	Lebanon	"As the initial report stated, article 9 of the Lebanese Constitution reads: "There shall be complete freedom of conscience. While acknowledging the Most High, the State shall respect all creeds and safeguard and protect the free exercise of all forms of worship, on condition that public order is not interfered with. It also guarantees that the personal status and religious interests of the population, to whatever creed they belong, shall be respected.",	State Report, CCPR/C/42/Add.14, 22 November 1996

96	Lesotho	“Article 13 (1) of the Constitution guarantees freedom of conscience. It states that every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of, freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance. The Constitution further provides in subsection (2) that every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at any place of education which it wholly maintains or in the course of any education which it otherwise.”	State Report, CCPR/C/81/Add.14, 16 October 1998, paragraph 115
97	Liberia	Article 14 of the Constitution "All persons shall be entitled to freedom of thought, conscience and religion and no person shall be hindered in the enjoyment thereof except as may be required by law to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. All persons who, in the practice of their religion, conduct themselves peaceably, not obstructing others and conforming to the standards set out herein, shall be entitled to the protection of the law. No religious denomination or sect shall have any exclusive privilege or preference over any other, but all shall be treated alike; and no religious tests shall be required for any civil or military office or for the exercise of any civil right. Consistent with the principle of separation of religion and state, the Republic shall establish no state religion."	http://pages.prodigy.net/jkess3/Constitu.htm
98	Libyan Arab Jamahiriya		
99	Liechtenstein	“The freedom of religion and conscience is guaranteed in Liechtenstein by the Constitution (article 37 LV).”	State Report, CCPR/C/LIE/2003/1, 3 April 2004, paragraph 141.
100	Lithuania	Article 26 of the Constitution "1) Freedom of thought, conscience, and religion shall not be restricted. 2) Every person shall have the right to freely choose any religion or faith and, either individually or with others, in public or in private, to manifest his or her religion or faith in worship, observance, practice or teaching. (3) No person may coerce another person or be subject to coercion to adopt or profess any religion or faith. "	http://servat.unibe.ch/icl/lh00000_.html
101	Luxembourg	Article 19 of the Constitution "Freedom of religion and of public worship as well as freedom to express one's religious opinions are guaranteed, subject to the repression of offenses committed in the exercise of such freedoms"	http://confinder.richmond.edu/country.php
102	Macedonia The Republic of	Article 16 (1) of the Constitution "1) The freedom of personal conviction, conscience, thought and public expression of thought is guaranteed..."	http://www.servat.unibe.ch/icl/mk00000_.html
103	Madagascar	“Article 10 of the Constitution states that ‘the freedoms of opinion and expression, communication, the press, association, assembly, movement, conscience and religion shall be	State Report, CCPR/C/MDG/2005/3, 13 June 2005, paragraph 293

		guaranteed to all and may be restricted only for the sake of respect for the freedoms and rights of others and the need to safeguard public order”.	
104	Malawi	Article 33 of the Constitution "Every person has the right to freedom of conscience, religion, belief and thought, and to academic freedom."	http://www.sdn.org.mw/constitut/chapter4.html
105	Malaysia	Article 11 of the Constitution limited to religious beliefs "(1) Every person has the right to profess and practice his religion and, subject to Clause (4), to propagate it."	http://www.helplinlaw.com/law/constitution/malaysia/malaysia02.php
106	Maldives	Article 25 of the Constitution "25. Every citizen shall have the freedom to express his conscience and thoughts orally or in writing or by other means, unless prohibited by law in the interest of protecting the sovereignty of the Maldives, of maintaining public order and of protecting the basic tenets of Islam."	http://www.maldivesculture.com/constitution[1].pdf
107	Mali	Article 4 of the Constitution "Article 4: Every person has the right to freedom of thought, conscience, religion, worship, opinion, expression, and creation in respect to the law."	http://confinder.richmond.edu/admin/docs/Mali.pdf
108	Malta	Article 32 of the Constitution " Whereas every person in Malta is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely -..(b) freedom of conscience, of expression and of peaceful assembly and association; and Article 40 (1) All persons in Malta shall have full freedom of conscience and enjoy the free exercise of their respective m mode of religious worship.	http://www.legal-malta.com/law/constitution-4.htm
109	Marshall Islands	Article 3 Section I "(1) Every person has the right to freedom of thought, conscience, and belief; to freedom of speech and of the press; to the free exercise of religion; to freedom of peaceful assembly and association; and to petition the government for a redress of grievances."	http://www.paclii.org/mh/legis/conso1_act/cotmi363/
110	Mauritania	Article 10 (1) of the Constitution "- the freedom of opinion and of thought..."	http://servat.unibe.ch/icl/mr00000_.html
111	Mauritius	Article 11 of the Constitution "(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section, that freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance."	http://www.gov.mu/portal/site/AssemblySite/menuitem.ee3d58b2c32c60451251701065c521ca/?content_id=03654555fc808010VgnVCM100000ca6a12acRCRD#pro
112	Mexico		
113	Micronesia, Federated State of		
114	Moldova	Article 31 of the Constitution "(1) The freedom of conscience is guaranteed, and its	http://confinder.richmond.edu/admin/

		manifestations should be in a spirit of tolerance and mutual respect...."	docs/moldova3.pdf
115	Monaco	"Followers of religions other than the Catholic religion are able to practise their religion freely and in public. In accordance with a very long-standing tradition of liberalism and tolerance, that principle, which respects the conscience of everyone, excludes any form of discrimination against non-Catholics. Within the education system, no pupil is required to follow courses of Catholic instruction; such courses are provided with due respect for conscience and subject to parental approval."	State Report, CCPR/C/MCO/2, 19 September 2007, paragraph 491.
116	Mongolia	Article 16 (15) of the Constitution "15) Freedom of conscience and religion"; "Article 18 of the Law on the State of Emergency provides that the Law shall not affect the right to life, the freedom of thought, conscience and religion, as well as the right to be free from torture, inhuman and cruel treatment, enshrined in the Constitution. State Report CCPR/C/103/Add.7, 16 June 1999, paragraph 22; It is stated in the Constitution that the State shall respect religion and religion shall honour the State. The Law on the Relationship between the State and the Church, enacted in 1993, secured the freedom of religion and belief which was declared in the Constitution and provided a regulatory framework for relationships between the State and the Church." State Report CCPR/C/103/Add.7, 16 June 1999, paragraph 65.	http://www.servat.unibe.ch/icl/mg00000_.html State Report CCPR/C/103/Add.7, 16 June 1999, paragraphs 22 & 65:
117	Montenegro	Article 46 of the Constitution "Everyone shall be guaranteed the right to freedom of thought, conscience and religion, as well as the right to change the religion or belief and the freedom to, individually or collectively with others, publicly or privately, express the religion or belief by prayer, preaches, customs or rites."	http://www.legislationline.org/upload/legislations/01/9c/b4b8702679c8b42794267c691488.htm
118	Morocco	Article 9 of the Constitution "... (b) freedom of opinion, of expression in all its forms, and of public gathering.."	http://confinder.richmond.edu/admin/docs/Morocco.PDF
119	Mozambique	Article 54 of the Constitution "...2. Nobody shall be discriminated against, persecuted, prejudiced, deprived of his or her rights, or benefit from or be exempt from duties, on the grounds of his faith or religious persuasion or practice."	http://confinder.richmond.edu/admin/docs/Constitution_(in_force_21_01_05)(English)-Mozlegal.pdf
120	Namibia	Article 21 (b) of the Constitution "(b) freedom of thought, conscience and belief, which shall include academic freedom in institutions of higher learning..."	http://www.orusovo.com/namcon/
121	Nauru	Article 11 of the Constitution "11.-(1.) A person has the right to freedom of conscience, thought and religion, including freedom to change his religion or beliefs and freedom, either alone or in community with others and in public or private, to manifest and propagate his religion or beliefs in worship, teaching, practice and observance."	http://www.pacii.org/nr/legis/num_act/con256/
122	Nepal		
123	Netherlands	Article 6 of the Constitution : (1) Everyone shall have the right to manifest freely his religion or belief, either individually or in community with others, without prejudice to his responsibility under the law."	http://www.servat.unibe.ch/icl/nl00000_.html
124	New Zealand	Bill of Rights Section 13 Freedom of thought, conscience and religion "Everyone has the right to freedom of thought, conscience, religion, and belief, including the right to adopt and hold	http://www.servat.unibe.ch/icl/nz010

		opinions without interference."	00 .htmlion
125	Nicaragua	Article 29 of the Constitution "ARTICULO 29.- Toda persona tiene derecho a la libertad de conciencia, de pensamiento y de profesar o no una religión. Nadie puede ser objeto de medidas coercitivas que puedan penoscabar estos derechos ni a ser obligado a declarar su credo, ideología o creencia."	http://pdba.georgetown.edu/Constitutions/Nica/nica87.html#tituloIVcapI
126	Niger	Article 23 of the Constitution "Toute personne a droit à la liberté de pensée, d'opinion d'expression, de conscience, de religion et de culte. L'État garantit le libre exercice du culte et l'expression des croyances..."	http://droit.francophonie.org/df-web/publication.do?publicationId=169
127	Nigeria	Article 38 (1) of the Constitution " (1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance."	http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm#Chapter_4
128	Norway	110 c) of the Constitution "It is the responsibility of the authorities of the State to respect and ensure human rights. Specific provisions for the implementation of treaties there on shall be determined by law." The Human Act No 30 of 21 May 1996 incorporating the European Convention for the Protection of Human Rights and Fundamental Freedoms."	http://www.stortinget.no/english/constitution.html#fulltext ; http://www.lovdata.no/all/hl-19990521-030.html#EMKE-A9
129	Oman	Article 28 of Constitution "The freedom to practise religious rites in accordance with recognised customs is guaranteed provided that it does not disrupt public order or conflict with accepted standards of behaviour." Article 29 "Freedom of opinion and expression, whether spoken, written or in other forms, is guaranteed within the limits of the Law."	http://servat.unibe.ch/icl/mu00000_h.html
130	Pakistan	Article 20 of the Constitution "20. Freedom to profess religion and to manage religious institutions. Subject to law, public order and morality:- a) every citizen shall have the right to profess, practise and propagate his religion; and b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions."	http://www.pakistani.org/pakistan/constitution/part2.ch1.html
131	Palau	Section 1 of the Constitution "Section 1. The government shall take no action to deny or impair the freedom of conscience or of philosophical or religious belief of any person nor take any action to compel, prohibit or hinder the exercise of religion. The government shall not recognize or establish a national religion, but may provide assistance to private or parochial schools on a fair and equitable basis for nonreligious purposes."	http://www.paclii.org/pw/legis/consol_act/cotrop359/
132	Panama	Article 35 of the Constitution "Artículo 35.- Es libre la profesión de todas las religiones, así como el ejercicio de todos los cultos, sin otra limitación que el respeto a la moral cristiana y la orden público. Se reconoce que la religión católica es la de la mayoría de los panameños."	http://pdba.georgetown.edu/Constitutions/Panama/panama1994.html
133	Papua New Guinea	Article 45 of the Constitution "(1) Every person has the right to freedom of conscience, thought and religion and the practice of his religion and beliefs, including freedom to manifest and propagate his religion and beliefs in such a way as not to interfere with the freedom of others, except to the extent that the exercise of that right is regulated or restricted by a law that complies with Section 38 (general qualifications on qualified rights)."	http://en.wikisource.org/wiki/Constitution_of_the_Independent_State_of_Papua_New_Guinea/Part_III

134	Paraguay	Article 24 of the Constitution "(1) Freedom of religion, worship, and ideology is recognized without any restrictions other than those established in this Constitution and the law. The State has no official religion...."	http://www.servat.unibe.ch/icl/pa00000_.html
135	Peru	Article 2 (3) of the Constitution "3. to freedom of conscience and religion, individually or as a member of a group. No one may be persecuted for his ideas or beliefs. There is no such thing as a crime of opinion--No restriction may be placed on the public expression of one's beliefs provided such expression does not constitute an offense against morals or a disturbance of the peace."	http://en.wikisource.org/wiki/Constitution_of_Peru#Section_I
136	Philippines	Article 3, Section 5 of the Constitution "Section 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights."	http://www.tanggol.org/environmental_laws/const.html
137	Poland	Article 53 of the Constitution "1) Freedom of faith and religion shall be ensured to everyone..."	http://confinder.richmond.edu/country.php
138	Portugal	Article 41 (1) of the Constitution "Freedom of conscience, religion, and worship are inviolable..."	http://www.servat.unibe.ch/icl/po00000_.html
139	Qatar	Article 50 of the Constitution "Freedom to practice religious rites shall be guaranteed to all persons in accordance with the law and the requirements of the maintenance of public order and morality."	http://english.mofa.gov.qa/details.cfm?id=80
140	Republic of Korea (South)	Article 19 "All citizens enjoy the freedom of conscience."	http://www.servat.unibe.ch/icl/ks00000_.html
141	Romania	Article 29 of the Constitution "(2) Freedom of conscience is guaranteed; it must be manifested in a spirit of tolerance and mutual respect."	http://www.servat.unibe.ch/icl/ro00000_.html
142	Russian Federation	Article 28 of the Constitution "Everyone shall be guaranteed the freedom of conscience, the freedom of religion, including the right to profess individually or together with other any religion or to profess no religion at all, to freely choose, possess and disseminate religious and other views and act according to them."	http://www.constitution.ru/en/10003000-03.htm
143	Rwanda	Article 18 of the Constitution "Freedom of religion and the public exercise thereof, liberty of conscience, as well as liberty of expressing one's opinion about any subject, shall be guaranteed, except for the punishment of infractions committed during the exercise thereof."	http://servat.unibe.ch/icl/rw00000_.html
144	Saint Kitts and Nevis	Article 11 of the Constitution "(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship,	http://www.sknvibes.com/Politics/Constitution.cfm?Sz=3&Csz=11

		teaching, practice and observance."	
145	Sait Lucia	Article 9 of the Constitution "(1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance."	http://pdba.georgetown.edu/Constitutions/Lucia/Luc78.html
146	Saint Vincent and the Grenaldines	Article 9 of the Constitution "9. (1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance."	http://pdba.georgetown.edu/Constitutions/Vincent/stvincent79.html
147	Samoa	Article 11 of the Constitution "(1) Every person has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others, and, in public or private, to manifest and propagate his religion or belief in worship, teaching, practice and observance..."	http://www.paclii.org/ws/legis/consol_act/cotisows1960535/
148	San Marino		
149	Sao Tome and Principe	Article 27 of the Constitution "1. A liberdade de consciência, de religião e de culto é inviolável.."	http://www.parlamento.st/
150	Saudi Arabia	Article 26 of the Constitution "The state protects human rights in accordance with the Islamic Shari'ah."	http://www.the-saudi.net/saudi-arabia/saudi-constitution.htm
151	Senegal	Article 24 of the Constitution "La liberté de conscience, les libertés et les pratiques religieuses ou cultuelles, la profession d'éducateur religieux sont garanties à tous sous réserve de l'ordre public."	http://www.gouv.sn/textes/const_detail.cfm?numero=TITREII
152	Serbia	Article 43 of the Constitution "Freedom of thought, conscience, beliefs and religion shall be guaranteed, as well as the right to stand by one's belief or religion or change them by choice...."	http://www.parlament.sr.gov.yu/content/eng/akta/ustav/ustav_2.asp
153	Seychelles	Article 21 of the Constitution "(1) Toute personne a droit à la liberté de conscience. Pour l'application du présent article, ce droit s'entend notamment de la liberté de religion ou de croyance, celle d'en changer, ainsi que de la liberté de professer et de propager sa religion ou sa croyance, individuellement ou en commun, tant en public qu'en privé, par le culte, l'observance ou la pratique religieuses et l'enseignement;..."	http://droit.francophonie.org/df-web/publication.do?publicationId=4303
154	Sierra Leone	Article 24 of the Constitution "1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience and for the purpose of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and	http://www.commonlii.org/sl/legis/const/1991/3.html

		freedom either alone or in community with others and both in public and in private to manifest and propagate his religion or belief in worship, teaching, practice and observance...."	
155	Singapore	Article 15 Freedom of Religion "(1) Every person has the right to profess and practise his religion and to propagate it..."	http://agcvldb4.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?&actno=Reved-CONST&date=latest&method=part
156	Slovakia	Article 24 of the Constitution "1) The freedoms of thought, conscience, religion, and faith are guaranteed. This right also comprises the possibility to change one's religious belief or faith. Everyone has the right to be without religious belief. Everyone has the right to publicly express his opinion."	http://www.servat.unibe.ch/icl/lo00000_.html
157	Slovenia	Article 41 of the Constitution "(1) Religious and other beliefs may be freely professed in private and public life. ..."	http://www.servat.unibe.ch/icl/si00000_.html
158	Solomon Islands	Article 11 of the Constitution "(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance..."	http://www.paclii.org/sb/legis/consolidated/c1978167/
159	Somalia		
160	South Africa	Article 15 of the Constitution "(1) Everyone has the right to freedom of conscience, religion, thought, belief and opinion...."	http://www.info.gov.za/documents/constitution/1996/96cons2.htm#13
161	Spain	Article 16 of the Constitution "(1) Freedom of ideology, religion, and cult of individuals and communities is guaranteed without any limitation in their demonstrations other than that which is necessary for the maintenance of public order protected by law...."	http://www.servat.unibe.ch/icl/sp00000_.html
162	Sri Lanka	Article 15 of the Constitution "Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice...."	http://www.constitution.gov.lk/constitutionSL.shtml
163	Sudan	Article 24 of the Constitution "Everyone has the right to freedom of conscience and religion and the right to manifest and disseminate his religion or belief in teaching, practice or observance. No one shall be coerced to profess a faith in which he does not believe or perform rituals or worship that he does not voluntarily accept. This right shall be exercised in a manner that does not harm public order or the feelings of others, and in accordance with law...."	http://www.sudan.net/government/constitution/english.html
164	Suriname	Article 18 of the constitution "Everyone has the right of freedom of religion and philosophy of life."	http://www.chanrobles.com/suriname.htm
165	Swaziland	Article 23 of the Constitution " A person has a right to freedom of thought, conscience and religion..."	http://www.gov.sz/home.asp?pid=2998
166	Sweden	Chapter 2, Article 1 of the Constitution "1. Freedom of expression: that is, the freedom to communicate information and express thoughts, opinions and sentiments, whether orally, pictorially, in writing, or in any other way;..."	http://www.riksdagen.se/templates/R_PageExtended_6319.aspx

167	Switzerland	Article 15 of the Constitution "(1) The freedom of faith and conscience is guaranteed..."	http://www.servat.unibe.ch/icl/sz00000_.html
168	Syrian Arab Republic	Article 34 of the Constitution "1) The freedom of faith is guaranteed. The state respects all religions..."	http://www.servat.unibe.ch/icl/sy00000_.html
169	Tajikistan	Article 26 of the Constitution "Each person has the right independently to determine her or his religious preference, to practice any religion alone or in association with others or to practice no religion, and to participate in the performance of religious cults, rituals, and ceremonies."	http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan003670.htm
170	Taiwan	Article 13 of the Constitution "The people shall have freedom of religious belief."	http://www.servat.unibe.ch/icl/tw00000_.html
171	Thailand	Article 38 of the Constitution "A person shall enjoy full liberty to profess a religion, a religious sect or creed, and observe religious precepts or exercise a form of worship in accordance with his or her belief; provided that it is not contrary to his or her civic duties, public order or good morals...."	http://servat.unibe.ch/icl/th00000_.html
172	Timor-Leste	Article 45 of the Constitution "1. Every person is guaranteed the freedom of conscience, religion and worship and the religious denominations are separated from the State."	http://www.etan.org/etanpdf/pdf2/constfnen.pdf
173	Togo	Article 25 of the Constitution "Toute personne a droit à la liberté de pensée, de conscience, de religion, de culte, d'opinion et d'expression. L'exercice de ces droits et libertés se fait dans le respect des libertés d'autrui, de l'ordre public et des normes établies par la loi et les règlements."	http://www.assemblee-nationale.tg/charpente/textfonda/constitution.pdf
174	Tonga	Article 5 of the Constitution "5. All men are free to practise their religion and to worship God as they may deem fit in accordance with the dictates of their own worship consciences and to assemble for religious service in such places as they may appoint. But it shall not be lawful to use this freedom to commit evil and licentious acts or under the name of worship to do what is contrary to the law and peace of the land."	http://www.paclii.org/cgi-paclii/disp.pl/to/legis/consol_act/cot238/cot238.html?query=cot238
175	Trinidad and Tobago	Article 4 (h) of the Constitution "freedom of conscience and religious beliefs and observance"	http://www.parliament.gov.tt/Docs/constitution/tconst.pdf
176	Tunisia	Article 5 of the Constitution "The Tunisian Republic guarantees the inviolability of the human person and freedom of conscience, and protects the free exercise of beliefs, with reservation that they do not disturb the public order."	http://www.servat.unibe.ch/icl/ts00000_.html
177	Turkey	Article 24 of the Constitution "(1) Everyone has the right to freedom of conscience, religious belief and conviction...."	http://www.servat.unibe.ch/icl/tu00000_.html
178	Turkmenistan	Article 26 of the Constitution "Citizens of Turkmenistan have the right to freedom of beliefs and their free expression, and the right to information provided it is not a state, official or commercial secret."	http://www.legislationline.org/legislation.php?tid=1&lid=7473
179	Tuvalu	Article 23 of the Constitution "(1) Subject to the provisions of this Part, and in particular to— except with his consent no-one shall be hindered in the exercise of his freedom of belief. 2) For the purposes of this section, freedom of belief includes- 2) For the purposes of this section, freedom of belief includes-...."	http://www.tuvaluislands.com/const-tuvalu.htm

180	Uganda	Article 29 of the Constitution "(1) Every person shall have the right to- ... (b) freedom of thought, conscience and belief which shall include academic freedom in institutions of learning..."	http://www.trybunal.gov.pl/constit/constitu/constit/uganda/uganda-e.htm
181	Ukraine	Article 34 of the Constitution "Everyone is guaranteed the right to freedom of thought and speech, and to the free expression of his or her views and beliefs...."	http://www.rada.gov.ua/const/conengl.htm
182	United Arab Emirates		
183	United Kingdom of Great Britain and Northern Ireland	Human Right Act of 1998 stating "Article 1 (2) Those Articles are to have effect for the purposes of this Act subject to any designated derogation or reservation (as to which see sections 14 and 15). Schedule I Part 1 Article 9 "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance."	http://www.opsi.gov.uk/ACTS/acts1998/ukpga_19980042_en_1
184	United Republic of Tanzania	Article 19 of the Constitution "... (1) Every person has the right to freedom of thought or conscience, belief or faith, and choice in matters of religion, including the freedom to change his religion or faith..."	http://www.chr.up.ac.za/hr_docs/constitutions/docs/TanzaniaC.pdf
185	United States of America	First Amendment "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."	http://caselaw.lp.findlaw.com/data/constitution/amendment01/
186	Uruguay		
187	Uzbekistan	Article 31 of the Constitution "Freedom of conscience is guaranteed to all. Everyone shall have the right to profess or not to profess any religion. Any compulsory imposition of religion shall be impermissible."	http://www.umid.uz/Main/Uzbekistan/Constitution/constitution.html#Part%20Two
188	Vanuatu	Article 5 (f) of the Constitution "(f) freedom of conscience and worship..."	http://www.paclii.org/vu/legis/consol_act/cotrov406/
189	Vatican (Holy See)		
190	Venezuela	Article 61: "All persons have the right to freedom of conscience, and to express the same except those practices affecting personality or constituting criminal offense. Objections of conscience may not be invoked in order to evade compliance with law or prevent others from complying with law or exercising their rights."	http://en.wikisource.org/wiki/Constitution_of_Venezuela
191	Viet Nam	Article 70 of the Constitution "Citizens have the right to freedom of belief and religion, and may practise or not practise any religion. All religions are equal before the law."	http://www.vietnamlaws.com/freelaws/Constitution92(aa01).pdf
192	Yemen	Article 23 of the Constitution "All citizens have the right to participate in the political, economic, sacral, and cultural life. To this end, the state shall guarantee the freedom of thought and the freedom to express opinion by word of mouth, in writing, or in picture, within the limits	http://www.servat.unibe.ch/law/icl/y m00000_.html

		of the law."	
193	Zambia	Article 19 of the Constitution "(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this Article the said freedom includes freedom of thought and religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance	http://www.servat.unibe.ch/icl/za00000.html
194	Zimbabwe	Article 19 of the Constitution "(1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of conscience, that is to say, freedom of thought and of religion, freedom to change his religion or belief, and freedom, whether alone or in community with others, and whether in public or in private, to manifest and propagate his religion or belief through worship, teaching, practice and observance."	http://www.chr.up.ac.za/hr_docs/constitutions/docs/ZimbabweC(rev).doc

5.6 Annex C: Conscription and Right to Conscientious Objection.

	Country	Conscription	Constitution/Specific Law/ Extracts from sources	Source	CO	Legal basis / Extracts from sources	Source
1	Afghanistan	Yes		http://www.wri-irg.org/co/rtba/afghanistan.htm ;	N/K		
2	Albania	Yes	Article 166 of the 1998 Constitution (2) further regulated by the Law on Military Service in the Armed Forces (7526/1991), Law 7978/1995 and the Law on Military Service (9047/2003).	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005; http://www.ipls.org/services/kusht/cp10.html#p15	Yes	Article 166 of the 1998 Constitution http://www.quaker.org/qcea/coreport/coreport.pdf 2003 Law on Military Service (Law 9047/2003) as further regulated by the Law on Military Service in the Armed Forces (7526/1991)	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
3	Algeria	Yes	Algeria Constitution Article 62 [Civil Duties] (1) Every citizen should, loyally, fulfill his obligations towards the national community.(2) The commitment of every citizen towards the Mother Country and the obligation to contribute to its defense are sacred and permanent duties. ...”	http://www.wri-irg.org/co/rtba/algeria ; E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/algeria.htm
4	Andorra	No	France and Spain responsible for army. No armed forces	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	N/A		
5	Angola	Yes	Art. 152 of the 1992 Constitution, Law 1/93 on 26 March 1993 Article 152 (1) The defense of the country shall be the right and the highest indeclinable duty of every citizen.	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/angola.htm

			(2) Military service shall be compulsory. The manner in which it is fulfilled shall be established by law. (3) Citizens shall not lose permanent employment or other social benefits by virtue of doing national service http://www.servat.unibe.ch/icl/ao0000_.html See also Law 1/1993				
6	Antigua and Barbuda	No		E/CN.4/2000/55	N/A	“The government of Antigua and Barbuda stated in 1994 that the issue of conscientious objection does not apply, as military service is voluntary in Antigua and Barbuda, UN Commission on Human Rights, 1994. Report of the Secretary-General prepared pursuant to Commission resolution 1993/84 (and Addendum). United Nations, Geneva”	http://www.wri-irg.org/co/rtba/antigua.htm
7	Argentina	No	Article 21 Argentina Constitution "Every Argentine citizen is obliged to bear arms in defense of the fatherland and of this Constitution, in accordance with the laws issued by Congress and the Decrees of the National Executive Power to this effect. Citizens by naturalization are free to render or not this service for a period of ten years as from the date they obtain naturalization papers."; The President of the Argentine Republic, by Decree No. 1537 of 29 August 1994, made military service voluntary.	E/CN.4/2000/55 (Since 1994) ; State Party report CCPR/C/ARG/98/3*, 7 May 1999, paragraph 153; http://www.servat.unibe.ch/icl/ar00000_.html	Yes	In case of conscription Art. 20 of Law 24.429 “Voluntary military service was then regulated by Congress through Act No. 24,429, which was passed on 14 December 1994 and promulgated on 5 January 1995. The regulation of this Act was effected by Decree No. 978 of 6 July 1995. With reference more specifically to article 19 of the Act, which provides that in the exceptional event that the quotas set are not filled by voluntary recruits, the Executive may, on substantiated grounds and with the statutory authorization of	http://www.wri-irg.org/co/rtba/argentina.htm

						Congress, conscript citizens reaching 18 years of age in the year in question for service for a period of no more than one year, the following article states: "Citizens who at the time of the conscription referred to in the above article are found to be prevented from undergoing military training, because they profess profound religious, philosophical or moral beliefs opposed in any circumstance to the personal use of arms or the joining of military units, shall perform alternative social service for the period laid down by the regulations, which may not be more than one year." State Party report CCPR/C/ARG/98/3*, 7 May 1999, paragraph 153	
8	Armenia	Yes	Article 47 of the 1995 Constitution and is further regulated by the 1998 Law on Military Service. Article 3: "A citizen subject to compulsory military conscription has the right to do alternative service, if the bearing, keeping, maintaining, and using of arms contradict his religious belief or convictions."	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005; http://www.armenianforeignministry.com/htmls/constitution.html	Yes	"The right to conscientious objection is legally recognized with the Armenian Law on Alternative Service. The law was adopted by the Armenian Parliament in December 2003 and entered into force on 1 July 2004." (2) http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
9	Australia	No		E/CN.4/2000/55	Yes	"Legislation Amendment Act 1992, Articles, 61A (1A) and 61A(1)(h) and (i)..."	
10	Austria	Yes	"Article 9(a) (3) of the Constitution and is further regulated by the 1990 Defence	E/CN.4/2000/55 & http://www.quaker.org/qcea/coreport/coreport.pdf	Yes	"Article 9(a) of the Constitution, which states that citizens who refuse to perform military service	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005

			Law (Wehrgesetz)..."	ort.pdf compiled until 2005; http://www.quaker.org/qcea/coreport/coreport.pdf http://servat.unibe.ch/icl/au00000_.html		for reasons of conscience must perform an alternative service. Its further legal basis is laid down in the 1986 Law on Civilian Service (Zivildienstgesetz) ..."	http://www.quaker.org/qcea/coreport/coreport.pdf
11	Azerbaijan	Yes	"Conscription is enshrined in Article 76 of the 1995 Constitution and is further regulated by the 1992 Law on the Armed Forces..."	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	"The right to conscientious objection is enshrined in Article 76 of the 1995 Constitution" and "According to Article 2: "in the cases defined by law, citizens who cannot accept an active military service because of their beliefs or other reasons must serve 24 months' alternative service". By 2005 no law to implement it. http://www.quaker.org/qcea/coreport/coreport.pdf	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
12	Bahamas	No		E/CN.4/2000/55	No	The government stated in 1989: "There is no provision in the Constitution of the Commonwealth of the Bahamas which is specific to conscientious objection to military service". UN Commission on Human Rights, 1991. Report of the Secretary-General prepared pursuant to Commission resolution 1989/59. United Nations, Geneva.	http://www.wri-irg.org/co/rtba/bahamas.htm
13	Bahrain	No	"Article 30 a. Peace is the objective of the State. The safety of the nation is part of the safety of the Arab homeland as a whole, and its defence is a sacred duty of every citizen. Performance of military service is an honour for	E/CN.4/2000/55; http://servat.unibe.ch/icl/ba00000_.html	No	"Bahrain has never experienced any person claiming conscientious objection to military service (...). The Government supports the Commission on Human Rights in its consideration of questions of conscientious objection to military	http://www.wri-irg.org/co/rtba/bahrain.htm

			citizens and is regulated by law..."			service." UN Commission on Human Rights 1992. Report of the Secretary-General prepared pursuant to Commission resolution 1991/65. (and 3 Addendums). United Nations, Geneva.	
14	Bangladesh	No	"62. Recruitment, etc., of defence services (1) Parliament shall by law provide for regulating- (a) the raising and maintaining of the defence services of Bangladesh and of their reserves; (b) the grant of commissions therein; (c) the appointment of Chief of Staff of the defence services, and their salaries and allowances; and (d) the discipline and other matters relating to those services and reserves. (2) Until Parliament by law provides for the matters specified in clause (1) the President may, by order, provide for such of them as are not already subject to existing law."	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/bangladesh.htm
15	Barbados	No		E/CN.4/2000/55	yes	"In its submission for the Secretary General's Report to the Commission on Human Rights in 1987 (E/CN.4/1987/99), Barbados stated: 'Chapter III of the Constitution provides for the protection of fundamental rights and freedom of the individual, while Section 19 is specific on the protection of the freedom of conscience.... Hence, freedom of conscience which is guaranteed	

						under the constitution would grant a citizen of Barbados the right to conscientious objection to military service in so far as it relates to Barbados.’” http://www2.ohchr.org/english/bodies/hrc/docs88/CPTI_Barbados.doc	
16	Belarus	Yes	“Conscription is enshrined in Article 57 of the 1994 Constitution and further regulated by the 1992 Law on Universal Military Duty and Military Service. Article 57 [Defence, Military Service] 1) It shall be the responsibility and sacred duty of every citizen of the Republic of Belarus to defend the Republic of Belarus. (2) The procedure governing military service, the grounds and conditions for exemption from military service, and the substitution thereof by alternative service shall be determined by law...”	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005; http://www.servat.unibe.ch/icl/bo00000_h.html	Yes	Article 57 of the 1994 Constitution and "In addition, the 1992 military service law stipulates in Article 5.1 and 14.3 that “universal military duty” may consist of either military service or alternative service But no law to implement alternative service of civilian character." (2)	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
17	Belgium	No	Suspended	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	“1992 the Law on Conscientious Objection; There are no legal provisions for the right to conscientious objection for professional soldiers...”	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
18	Belize	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/belize.htm
19	Benin	Yes	Selective conscription	E/CN.4/2000/55	No		Eide, A., C. Mubanga-Chipoya 1985. Conscientious objection to military service, report prepared in pursuance of

							resolutions 14 (XXXIV) and 1982/30 of the Sub-Commission of Prevention of Discrimination and Protection of Minorities. United Nations, New York. (Hereinafter "Eide, A., C. Mubanga-Chipoya 1985 Report.")
20	Bhutan	No	Article 8 (1) of the Draft Constitution, "A Bhutanese citizen shall preserve, protect and defend the sovereignty, territorial integrity, security and unity of Bhutan and render national service when called upon to do so by Parliament."	Amnesty International 1991. Conscientious objection to military service. AI, London; http://www.wri-irg.org/co/rtba/bhutan.htm	No		http://www.wri-irg.org/co/rtba/bhutan.htm
21	Bolivia	Yes	Article 8 f of the Constitution, "Toda persona tiene los siguientes deberes fundamentales:...) De prestar los servicios civiles y militares que la Nación requiera para su desarrollo, defensa y conservación..."	E/CN.4/2000/55; http://pdba.georgetown.edu/Constitutions/Bolivia/consboliv2005.html#parte1titulo2	No		http://www.cidh.org/annualrep/2006eng/Chap.3L.htm
22	Bosnia and Herzegovina	No		http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	2004 Defense Law	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
23	Botswana	No		E/CN.4/2000/55	No		Eide, A., C. Mubanga-Chipoya, 1985 Report
24	Brazil	Yes	art. 143 of the 1988 Federal Constitution	http://www.wri-irg.org/co/rtba/brazil.htm	Yes	art. 143 (1) of the 1988 Federal Constitution, the Military Service Decree, 4 October 1991 Decree No. 8.239 and the 28 July 1992 Regulation 2.681 further specify	http://www.wri-irg.org/co/rtba/brazil.htm

						the regulations for these cases of conscientious objection. UN Commission on Human Rights 1992. Report of the Secretary-General prepared pursuant to Commission resolution 1991/65 (and 3 Addendums). United Nations, Geneva. http://www.v-brazil.com/government/laws/titleV.html	
25	Brunei Darussalam	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/brunei.htm
26	Bulgaria	Yes	“Use to Conscription is enshrined in Article 59.1 of the 1991 Constitution. It is further regulated by the 1995 Law on Defence and Armed Forces...”	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	“Article 59.2 of the 1991 Constitution, 1998 Law for Replacement of Military Obligations with Alternative Service.; Law on Alternative Service 2003” (http://www.cpti.ws/cpti_docs/bret/t/recruitment_and_co_A4.pdf)	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
27	Burma/ Myanmar	Yes	Article 171 of the Constitution "Every citizen shall in accordance with law-(a) undergo military training, and b) undertake military service for the defense of the State.	E/CN.4/2000/55; http://www.thailawforum.com/database1/constmyanmar4.html	No		http://www.wri-irg.org/co/rtba/burma.htm
28	Burkina Faso	No		E/CN.4/2000/55	No		Eide, A., C. Mubanga-Chipoya, 1985 Report
29	Burundi	No	Article 70: Tous les citoyens sont tenus de s’acquitter de leurs obligations civiques et de défendre la patrie, Article 257: "Les Corps de défense et de sécurité sont ouverts sans discrimination à tous les citoyens burundais désireux d’en faire partie. Leur organisation est basée sur le volontariat et le	E/CN.4/2000/55 & http://www.wri-irg.org/co/rtba/burundi.htm . New constitution http://burundi.news.free.fr/actualites/constitutionbu.html	No		http://www.wri-irg.org/co/rtba/burundi.htm and War Resisters' International 1994. Issues of conscience and military service. WRI, London, UK.

			professionnalisme..."				
30	Cambodia	Yes	"Article 49 - Every Khmer citizen shall respect the Constitution and laws. All Khmer citizens shall have the duty to take part in the national reconstruction and to defend the homeland. The duty to defend the country shall be determined by law. New law passed 25 October 2006..."	http://cambodiannews online.wordpress.com/2006/10/28/why-should-cambodia-not-enforce-conscription-law/ http://news.bbc.co.uk/2/hi/asia-pacific/6083882.stm ; http://www.wri-irg.org/pubs/upd-0611.htm	N/K		
31	Cameroon	No		http://www.cpti.ws/cpti_docs/brett/recruitment_and_co_A4.pdf	No		http://www.wri-irg.org/co/rtba/cameroon.htm
32	Canada	No		E/CN.4/2000/55	Yes	Department of National Defense in the Defense Administrative Orders and Directives adopted provisions on Conscientious objection (DAOD 5049-2, 30 July 2004).	http://www.admfines.fores.gc.ca/admfines/subjects/daod/5049/2_e.asp
33	Cape Verde	Yes		E/CN.4/2000/55	Yes	Article 48 (8) "The right to conscientious objection shall be guaranteed in accordance with the law..."	http://confinder.richmond.edu/admin/docs/CapeVerde.pdf
34	Central African Rep.	Yes	Selective conscription	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/centralafricanrepublic.htm
35	Chad	Yes	Article 51 "La défense de la patrie et de l'intégrité du territoire national est un devoir pour tout Tchadien. Le service militaire est obligatoire. Les conditions d'accomplissement de ce devoir sont déterminées par la loi. "	E/CN.4/2000/55; http://www.cefod.org/Fichiers%20web/Constitution%20Tchadienne.html#_Toc486737717 (According to report in 1999 would	No	Article 54 "Nul ne peut se prévaloir de ses croyances religieuses, ni de ses opinions philosophiques pour se soustraire à une obligation dictée par l'intérêt national. "	http://www.cefod.org/Fichiers%20web/Constitution%20Tchadienne.html#_Toc486737717

				not be enforced)			
36	Chile	Yes	“Article 22. -Military service and other personal obligations which the law prescribes are compulsory on the terms and manner set forth therein...”	E/CN.4/2000/55; http://confinder.richmond.edu/admin/docs/Chile.pdf	No	“Under a recent Act, exemptions and exclusions have been allowed to the obligation to perform military service in Act No. 20.045 of September 2005. Ministers of religion belonging to churches, faiths and religious institutions with public-law status are exempt from performing military service so long as they remain in their respective functions and provided that they demonstrate their status by means of certificates issued by their respective religious organizations. In addition, the provisions for exclusion from military service have been extended, to include blood descendants (as specified in the Act) of the victims of violations of human rights or political violence. In general, under the new Act, conscientious objectors are not exempted from military service, which is compulsory for all persons over the age of 18. During the process of consideration of the Act, a parliamentary motion was tabled to include conscientious objection as one of the grounds for exemption from compulsory military service, but, while the initiative was supported by the Government, it was rejected by Congress.”	State Report, CCPR/C/CHL/5, 5 July 2006, paragraph 249

37	China	Yes	Article 55 of the Constitution/1984 Military Service Law (1)	E/CN.4/2000/55; http://www.servat.unibe.ch/law/icl/ch00000_0_.html	No		http://www.wri-irg.org/co/rtba/china.htm
38	Colombia	Yes		E/CN.4/2000/55	No	“The Committee notes with concern that the legislation of the State party does not allow conscientious objection to military service. The State party should guarantee that conscientious objectors are able to opt for alternative service whose duration would not have punitive effects.”	Colombia, CCPR/CO/80/COL, 24 May 2004, paragraph 17.
39	Comores	No		http://www.tiscali.co.uk/reference/encyclopaedia/countryfacts/comoros.html http://www.geocities.com/jusjih/dncdp.html	N/K		http://www.wri-irg.org/co/rtba/comores.htm
40	Congo	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/congobrazzaville.htm
41	Costa Rica	No	Act 7/92, of 2 May 1992, and the recent Decree-Law No. 191/92, of 8 September 1992.	E/CN.4/2000/55	N/A	“...Consequently, the question of conscientious objection to military service does not arise in Costa Rica....”	E/CN.4/2000/55
42	Côte d'Ivoire	Yes		E/CN.4/2000/55	N/K		
43	Croatia	Yes	Article 47 "(1) Military service and the defense of the Republic of Croatia shall be the duty of every capable citizen of the Republic of Croatia; Conscription is enshrined in Article 47.1 of the 1990 Constitution and is further regulated by the 2002 Defence	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005; http://www.servat.unibe.ch/icl/hr00000_.html	Yes	“Article 47 (2) "(2) Conscientious objection shall be allowed to all those who for religious or moral reasons are not willing to participate in the performance of military service in the armed forces. Such persons shall be obliged to perform other duties	E/CN.4/2000/55 & http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005

			Law. ...”			specified by law.” http://www.servat.unibe.ch/icl/hr00000.html ; “Article 47.2 of the 1990 Constitution, 1991 Defence Law (as amended in 1993 and 1996); The Law on Defense (NN 74/93 and 57/96), State Report, CCPR/C/HRV/99/1, 7 March 2000, paragraph 408; Article 81 (2) Defence Act (1)	
44	Cuba	Yes	ARTICLE 65 “Defense of the socialist homeland is the greatest honor and the supreme duty of every Cuban citizen. The law regulates the military service which Cubans must do.” ;National Defence Act (No. 75) of 1994	E/CN.4/2000/55; http://www.cubanet.org/ref/dis/const_92_e.htm ;	Yes	“Religious reasons exempted to carrying weapons and participate in combat units.”	E/CN.4/2000/55
45	Cyprus	Yes	“Conscription is regulated by the National Guard Law (20/1964).”	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	In 1992, provisions for conscientious objection were included in Section 5 of the National Guard Quakers, State Report, CCPR/C/94/Add.1, 30 August 1995, paragraphs 227 to 230	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
46	Czech Republic	No	"Since 1 January 2005 the armed forces consist of professional soldiers only." (2) As of 1 January 2005, the refusal to take part in special services has been regulated by the Conscription Act (Act No. 585/2004). This law retains the general defence duty solely in the event of a national emergency or state of war.”	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005; State Report, CCPR/C/CZE/2, 29 November 2006, paragraph 385	Yes	Article 15.3 of the Charter of Fundamental Rights and Freedom. “..In case conscription is reintroduced, the Law on Civilian Service will apply again. Under the Conscription Act, on grounds of conscience or religious conviction a reservist may refuse to take part in special service, i.e. mandatory service during a state of war or national emergency,186 within 15 days of the date on which the decision on his ability to	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005

						take part in active military service, issued in the conscription procedure, is delivered, or within 15 days of the effective date of the declaration of a national emergency or state of war. This individual is then required to assume work duties under the Act on the Defence of the Czech Republic (Act No. 222/1999). State Report, CCPR/C/CZE/2, 29 November 2006, paragraph 385	
47	Democratic Republic of the Congo	Yes	Article 63 of Constitution of 2006 "Tout Congolais a le droit et le devoir sacré de défendre le pays et son intégrité territoriale face à une menace ou à une agression extérieure. Un service militaire obligatoire peut être instauré dans les conditions fixées par la loi.	E/CN.4/2000/55; http://www.presidentrdc.cd/constitution.html	N/K		
48	Democratic Republic of Korea (North)	Yes	Article 86 of the Constitution "National defense is the supreme duty and honor of citizens. Citizens shall defend the country and serve in the army as required by law."	http://www.novexc.com/dprk_constitution_98.html	No		http://www.wri-irg.org/co/rtba/koreanorth.htm
49	Denmark	Yes	National Service Law (1980), as amended in 1992 and 1998/article 81 of the Danish Constitution	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005; http://www.servat.unibe.ch/icl/da00000_.html	Yes	"1987 Civilian Service Act (588/87), as amended in 1992 and 1998. Legal order No. 1089 of 1998; Only for religious belief or ethical reasons relieved of bearing arms and combat activities* Law No. 394 of 1987 (1) ..."	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
50	Djibouti	No	Article 17 of the Constitution "La défense de la Nation et de l'intégrité du territoire de la République est un devoir sacré	E/CN.4/2000/55; http://www.adi.dj/constitut/constitut_dj.htm	No		http://www.wri-irg.org/co/rtba/djibouti.htm

			pour tout citoyen djiboutien."				
51	Dominica	No		E/CN.4/2000/55 & http://www.nationsencyclopedia.com/Americas/Dominica.html	No		http://www.wri-irg.org/co/rtba/dominica.htm
52	Dominican Republic	Yes	Not clear if enforced	E/CN.4/2000/55	N/K		http://www.wri-irg.org/co/rtba/congodr.htm
53	Ecuador	Yes	Constitution of 98 Art. 188.- El servicio militar será obligatorio. El ciudadano será asignado a un servicio civil a la comunidad, si invocare una objeción de conciencia fundada en razones morales, religiosas o filosóficas, en la forma que determine la ley.	E/CN.4/2000/55; http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador98.html	Yes	Art. 188.- El servicio militar será obligatorio. El ciudadano será asignado a un servicio civil a la comunidad, si invocare una objeción de conciencia fundada en razones morales, religiosas o filosóficas, en la forma que determine la ley”	http://pdba.georgetown.edu/Constitutions/Ecuador/ecuador98.html
54	Egypt	Yes	Art.58 of the Constitution "Defence of the motherland is a sacred duty and conscription shall be obligatory in accordance with the law."	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/egypt.htm
55	El Salvador	Yes	Constitution/Specific Law* "Art. 215.- El servicio militar es obligatorio para todos los salvadoreños comprendidos entre los dieciocho y los treinta años de edad. En caso de necesidad serán soldados todos los salvadoreños aptos para actuar en las tareas militares..."	E/CN.4/2000/55; http://pdba.georgetown.edu/Constitutions/ESal/ElSal83.html	No	Law on Military Service and Reserve Armed Forces	http://www.wri-irg.org/co/rtba/elsalvador.htm
56	Equatorial Guinea	Yes	Constitution Article 16 "Military services shall be obligatory for all and shall be regulated by law."	E/CN.4/2000/55; http://www.ceiba-guinea-ecuatorial.org/guineeanagl/nvelle_const.htm	No		http://www.wri-irg.org/co/rtba/guinea.htm

57	Eritrea	Yes		E/CN.4/2000/55	No		http://www.wri-irg.org/news/2005/eritrea-en.htm
58	Estonia	Yes	“Conscription is enshrined in Article 124 of the 1991 Constitution and is further regulated by the 2000 Defence Forces Service Act...”	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	“Article 124 of the 1991 Constitution, 2000 Defence Forces Service Act...”	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
59	Ethiopia	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/ethiopia.htm
60	Fiji	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/fiji.htm
61	Finland	Yes	Article 127 of the 1999 Constitution; 1998 Military Service Law (19/1998)	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	1991 Civilian Service Act;	E/CN.4/2000/55 & http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
62	France	No	Suspended since 1997 State Report, CCPR/C/FRA/4, 8 July 2007, paragraph 302	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	“...1983 Law on Conscientious Objection but applicable only to men born before 31/12/78. “	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
63	Gabon	Yes	Unclear if enforced; “Article 1 (21°) Chaque citoyen a le devoir de défendre la patrie et l'obligation de protéger et de respecter la Constitution, les lois et les règlements de la République;	E/CN.4/2000/55; http://droit.francophonie.org/df-web/publication.do?publicationId=4268	No		http://www.wri-irg.org/co/rtba/gabon.htm
64	Gambia	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/gambia.htm
65	Georgia	Yes	“...Article 101 of the 1995 Constitution and Laws Military Service...”	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	1997 Law on Alternative service	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
66	Germany	Yes	Article 12.1 of the 1949	E/CN.4/2000/55;	Yes	“Article 4b of the 1979	http://www.quaker.org/

			Constitution, 1956 Law on Military Service	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005		Constitution, 2003 Law on Conscientious objection”; “Article 12 a (...) 2 of the Basic Law " (2) Any person who, on grounds of conscience, refuses to render military service involving the use of arms may be required to perform alternative service. The duration of alternative service shall not exceed that of military service. Details shall be regulated by a law, which shall not interfere with the freedom to make a decision in accordance with the dictates of conscience, and which shall also provide for the possibility of alternative service not connected with units of the Armed Forces or of the Federal Border Police.” http://www.servat.unibe.ch/law/lit/the_basic_law.pdf	http://www.wri-irg.org/co/rtba/ghana.htm
67	Ghana	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/ghana.htm
68	Greece	Yes	Article 4.6 of the 1975 Constitution, Law 731/1977 as amended in 1988 (1763/1988)	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	1997 Law Conscientious Objection (2510/1997)	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
69	Grenada	No	No military forces	E/CN.4/2000/55; http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CPTI-grenada_en.pdf	No		http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CPTI-grenada_en.pdf
70	Guatemala	No	“The Constitution provides that military service is a both a duty and a civil right. In 1995, by order	E/CN.4/2000/55; State Report,	No	“In the framework of the Peace Agreements, specifically 43 and 44 of the Agreement on Strengthening	http://www.wri-irg.org/co/rtba/guatemala.htm

			of the President of the Republic, the army was told to suspend recruitment pending approval of a new law on military service, and that only persons who came forward voluntarily and expressed a desire to join the service must be accepted, provided they were deemed suitable under the law.”	CCPR/C/GTM/99/2, 5 April 2000, paragraph 223		of Civilian Power and Role of the Army in a Democratic Society, the following stipulations apply to military and social service: "It is reasonable to continue the practice of voluntary military recruitment while the Guatemalan Government, on the basis of the Comprehensive Agreement on Human Rights, proceeds to take the necessary administrative decisions and the Congress of the Republic to approve a Civilian Service Act, which will cover military and social service; the act shall concern compliance with a duty and constitutional right, which may not be forced or conducive to violation of human rights, and must be universal and non-discriminatory; the act shall reduce the length of service and present citizens with options." On the basis of these general principles, the Government formulated the Civilian Service Act, which is now awaiting approval by Congress. “	State Report, CCPR/C/GTM/99/2, 5 April 2000, paragraph 225
71	Guinea	Yes		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/guinea.htm
72	Guinea-Bissau	Yes		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/guineabissau.htm
73	Guyana	No	Article 33 of the Constitution "It is the duty of every citizen to defend the State." Only at time of	E/CN.4/2000/55; http://www.wri-irg.org/co/rtba/guyan	Yes		http://www.wri-irg.org/co/rtba/guyana.htm

			emergency	a.htm			
74	Haiti	No	Article 52 (1) f) "Civic duties are the citizen's moral, political, social and economic obligations as a hole to the State and the country. These obligations are:... f. To defend the country in the event of war..."	E/CN.4/2000/55; http://pdba.georgetown.edu/Constitutions/Haiti/haiti1987.html	No		http://www.wri-irg.org/co/rtba/haiti.htm
75	Honduras	No	Not enforced (1) Article 40 (5) of the Constituion " Son deberes del ciudadano: 5. Cumplir con el servicio militar; y,..."	E/CN.4/2000/55; http://www.honduras.net/honduras_constitution2.html	No		http://www.wri-irg.org/co/rtba/honduras.htm
76	Hungary	No	Since 2004	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	"Since 1989. Since 1993 no examination, increased from 500 to 5000. No provisions for professional soldiers. "	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
77	Iceland	No	No armed forces	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	N/A		http://www.wri-irg.org/co/rtba/iceland.htm
78	India	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/india.htm
79	Indonesia	Yes	Not enforced (1) Article 30 of the Constitution "(1). Every citizen shall have the right and the duty to participate in the defense efforts of the state.(2). The requirements pertaining to defense shall be laid down by law."	E/CN.4/2000/55; http://www.indonesia-mission-nv.org/issuebaru/HumanRight/1945cons.htm	No		http://www.wri-irg.org/co/rtba/indonesia.htm
80	Iran (Islamic Republic of).	Yes	Article 31 of the Iraqi Constitution (1970)/Military service is regulated by the Military Service Act (No. 65) of 1969.*; Article 151 of the Constitution "Article 151 [Military Training] "In accordance with the	E/CN.4/2000/55; http://www.servat.unibe.ch/law/icl/ir00000_.html	No		http://www.wri-irg.org/co/rtba/iran.htm

			noble Koranic verse: "Prepare against them whatever force you are able to muster, and horses ready for battle, striking fear into God's enemy and your enemy, and others beyond them unknown to you but known to God..." [8:60], the government is obliged to provide a program of military training, with all requisite facilities, for all its citizens, in accordance with the Islamic criteria, in such a way that all citizens will always be able to engage in the armed defence of the Islamic Republic of Iran. The possession of arms, however, requires the granting of permission by the competent authorities."				
81	Iraq	Yes	Article 31 Constitution (1970), Military Act (No.65) of 1969.	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/iraq.htm
82	Ireland	No		E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	"There is no actual regulation on conscientious objection. However, a soldier objecting the role of the armed forces can seek discharge at any time." War Resisters' International 1990. Country report. WRI, London	http://www.wri-irg.org/co/rtba/archive/ireland.htm
83	Israel	Yes		E/CN.4/2000/55	Yes	Defense Service Law (Consolidated Version) -1986 Section 36"	David Zonshein et al. v. Judge-Advocate General, 36 Isr. L. Rev. 1-17, 2002.
84	Italy	No		http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Law on Conscientious objection (230/1998). No legal provision for professional soldiers	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
85	Jamaica	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/jamaica.htm

							http://www.wri-irg.org/co/rtba/jamaica.htm
86	Japan	No	Article 9 of the Constitution "Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. 2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized."	E/CN.4/2000/55; http://www.solon.org/Constitutions/Japan/English/english-Constitution.html#CHAPTER_III	No	"It seems that professional soldiers who develop a conscientious objection may seek discharge at any time.."	http://www.wri-irg.org/co/rtba/japan.htm
87	Jordan	Yes	Suspended, However "DefenseNews.com reported on 8 March 2007 that Jordan, which suspended military conscription in 1999, decided on 6 March to resume compulsory service at a more limited scale and with the objective of improving the capabilities of the country's labor force." Source http://www.wri-irg.org/pubs/upd-0704.htm	E/CN.4/2000/55 http://www.wri-irg.org/pubs/upd-0704.htm	No		http://www.wri-irg.org/co/rtba/jordan.htm
88	Kazakhstan	Yes	Article 36 of the Constitution "1. Defense of the Republic of Kazakhstan shall be a sacred duty and responsibility of its every citizen. 2. Citizens of the Republic shall perform military service according to the procedure and in the forms established by law. "	E/CN.4/2000/55; http://www.akorda.kz/www/www_akorda.kz.nsf/sections?OpenForm&id_doc=DB26C3FF70789C84462572340019E60A&lang=en&L1=L1&L2=L1-9	No		http://www.wri-irg.org/co/rtba/kazakhstan.htm

89	Kenya	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/kenya.htm
90	Kiribati	No	No armed forces	http://www.allcountries.org/wfb2005/kiribati/kiribati_military.html	N/A		
91	Kuwait	Yes	1980 Compulsory Service Act (Law 102/1980).	E/CN.4/2000/55; http://www.wri-irg.org/co/rtba/kuwait.htm	No		http://www.wri-irg.org/co/rtba/kuwait.htm
92	Kyrgyzstan	Yes	Article 24 of the Constitution "Citizens of the Kyrgyz Republic shall have the right and duty to defend the Motherland. Citizens shall perform military service within the limits and in the forms established by law."	E/CN.4/2000/55 http://www.coe.int/t/e/legal_affairs/legal_co-operation/foreigners_and_citizens/nationality/documents/national_legislation/kyrgyzstan%20constitution%20of%20the%20kyrgyz%20republic.asp#P251_17842	Yes	2002 Law on Alternative Service (Non-Military) Service, June 2002	http://www.cpti.ws/cpti_docs/brett/recruitment_and_co_A4.pdf
93	Lao People's Democratic Republic	Yes	Article 36 of the Constitution "Lao citizens have the obligations to defend the country, to maintain the people's security and to fulfill military obligations as prescribed by law."	E/CN.4/2000/55 http://confinder.richmond.edu/admin/docs/laos.pdf	No		http://www.wri-irg.org/co/rtba/laos.htm
94	Latvia	Yes	"The compulsory military service is regulated by the Compulsory Military Service Law that was enacted in 1997. The above Law prescribes that all men - citizens of Latvia - at the age of 19 to 27 are drafted into the compulsory	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	2002 Law on Alternative service	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005

			military service. In their turn, women - citizens of Latvia, as well as men at the age of 18 to 27 may enter the service on voluntary basis. State Report, CCPR/C/LVA/2002/2, 22 November 2002, paragraph 124.				
95	Lebanon	Yes	Young Lebanese have to do one year of military service; exemptions are granted in the case of an eldest son, an only son, etc. Conscientious objector status is not recognized.	E/CN.4/2000/55; State Report, CCPR/C/42/Add.14, 22 November 1996, paragraph 33	No	Young Lebanese have to do one year of military service; exemptions are granted in the case of an eldest son, an only son, etc. Conscientious objector status is not recognized.	State Report, CCPR/C/42/Add.14, 22 November 1996, paragraph 33
96	Lesotho	No		E/CN.4/2000/55	No	Section 9 Constitution (3) c) provides:“(c) any labour required of a member of a disciplined force in pursuance of his duties as such or in the case of a person who has conscientious objections to service as a member of a military or air force, any labour that person is required by law to perform in place of such service; State Report, CCPR/C/81/Add.14, 16 October 1998, paragraph 65	http://www.wri-irg.org/co/rtba/lesotho.htm State Report, CCPR/C/81/Add.14, 16 October 1998, paragraph 65
97	Liberia	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/liberia.htm
98	Libyan Arab Jamahiriya	Yes	Article 16 of the Constitution "Defense of the homeland is a sacred duty. Military service is an honor for the Libyan people."	E/CN.4/2000/55; http://www.servat.unibe.ch/law/icl/ly000000.html	No		http://www.wri-irg.org/co/rtba/libya.htm ; http://www2.ohchr.org/english/bodies/hrc/docs/ngos/cptilibya.doc
99	Liechtenstein	No	No army. However, Article 44 of Constitution: "Every man fit to bear arms shall be liable, up to the	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf	N/A		http://www.quaker.org/qcea/coreport/coreport.pdf compiled until

			completion of his sixtieth year, to serve in the defence of his country in the event of an emergency."	ort.pdf compiled until 2005			2005
100	Lithuania	Yes	Article 139 of the 1992 Constitution and 1996 Law on National Conscription (1593/1996)	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Article 139 of the 1992 Constitution, 1996 Law on National Conscription (2); "The conditions for alternative service available to persons who have a conscientious objection to military service, in particular the grounds for establishing the right to perform alternative service and its length, are matters of concern. Therefore, the grounds and eligibility for performing, without discrimination, alternative service on grounds of conscience or religious belief should be clarified to ensure that the right to freedom of conscience and religion is respected." Lithuania State Report, ICCPR, A/53/40 vol. I (1998) 30 at paras. 175 and 176.	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005 State Report, ICCPR, A/53/40 vol. I (1998) 30 at paras. 175 and 176.
101	Luxembourg	No		E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	No		
102	Macedonia The Republic of	Yes	Article 28 of the Constitution, 2001 Law on Defence	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	2001 Law on Defence.	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
103	Madagascar	Yes	Article 18 de la Constitution "National service shall be an honorable duty. It shall not affect employment or political rights."	E/CN.4/2000/55; http://unpan1.un.org/intradoc/groups/public/documents/cafrad/un	No		http://www.wri-irg.org/co/rtba/madagascar.htm

				pan005132.pdf			
104	Malawi	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/malawi.htm
105	Malaysia	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/malaysia.htm
106	Maldives	No		E/CN.4/2000/55			
107	Mali	Yes	Article 22 of the Constitution "Article 22: Defense of the homeland is a duty of every citizen."	E/CN.4/2000/55; http://confinder.richmond.edu/admin/docs/Mali.pdf	No		http://www.wri-irg.org/co/rtba/mali.htm
108	Malta	No		E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	No		http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
109	Marshall Islands		No armed forces	http://www.cpti.ws/cpti_docs/brett/recruitment_and_co_A4.pdf	Yes	Article 3 Section 11 "No person shall be conscripted to serve in the armed forces of the Republic of the Marshall Islands except in time of war or imminent danger of war as certified by the Cabinet, and no person shall be conscripted if, after being afforded a reasonable opportunity to do so, he has established that he is a conscientious objector to participation in war."	http://www.pacii.org/mh/legis/consol_act/cotmi363/
110	Mauritania	Yes	Not enforced, Article 18 of the Constitution "1) Every citizen has the duty of protecting and safeguarding the independence of the country, its sovereignty, and the integrity of its territory."	E/CN.4/2000/55; http://servat.unibe.ch/icl/mr00000.html	No		http://www.wri-irg.org/co/rtba/mauritania.htm
111	Mauritius	No	No armed forces	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/mauritania.htm

							irg.org/co/rtba/mauritius.htm
112	Mexico	Yes		E/CN.4/2000/55	No	<p>“Mexican legislation makes no provision for the legal concept of “conscientious objector” for persons who are obliged to perform national military service in accordance with the Guarantee of Equality contained in the Mexican Constitution. Under this provision, military service is compulsory for everyone who is Mexican by birth or naturalization, without distinction as to religion, race or colour. In principle, no one is permitted exemption from this obligation.” (60)</p> <p>“ Despite the fact that Mexican legislation makes no allowance for the above-mentioned legal concept, under the Military Service Act and its regulations the Ministry of Defence may exempt from military service anyone who fails to meet the requirements specified in the aforementioned regulations. Such persons include individuals with physical, moral or social impediments, who are covered by the provisions of article 10 of the Military Service Act, which states that: “The Regulations pertaining to this Act shall specify grounds for total or partial exemption from military service, setting out the impediments of a physical, moral or social nature and the manner in</p>	<p>E/CN.4/2000/55;</p> <p>State Report, CCPR/C/123/Add.2, 28 April 2000, paragraphs 60 and 61.</p>

						which they can be proved. By virtue of this Act, the Ministry of Defence is empowered to exempt from military service those who fail to meet the needs of national defence.” (61)	
113	Micronesia, Federated State of	No			N/A		
114	Moldova	Yes	Article 57 of the 1994 Constitution, 2002 Law on Preparation for Defence.	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	1991 Alternative Service Act.	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
115	Monaco	No	“France provides military protection for Monegasque territory at the request of the Principality’s authorities, and may intervene of its own initiative, if the sovereignty, independence or integrity of Monaco’s territory is seriously threatened and the proper functioning of the government has been interrupted (art. 4).”	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005 State Report, CCPR/C/MCO/2, 19 September 2007, paragraph 279	N/A		
116	Mongolia	Yes		E/CN.4/2000/55	Yes	2002, Law on Military Service Duties of Citizens and the Legal Status of Military Personnel	http://www.cpti.ws/cpti_docs/brett/recruitment_and_co_A4.pdf
117	Montenegro	No			Yes	Article 48 of the Constitution "Everyone shall have the right to objection of conscience. No one shall be obliged, contrary to own religion or conviction, to fulfill a military or other duty involving the use of arms."	http://www.legislationline.org/upload/legislations/01/9c/b4b8702679c8b42794267c691488.htm
118	Morocco	Yes	Article 16 of the Constitution "All citizens shall contribute to the defence of the Country."	E/CN.4/2000/55; Morocco, ICCPR, A/60/40 vol. I (2004)	No		Morocco, ICCPR, A/60/40 vol. I (2004) 35 at paragraphs.

				35 at paras. 84(21), 84(22) and 84(27). http://confinder.richmond.edu/admin/docs/Morocco.PDF			84(21), 84(22) and 84(27).
119	Mozambique	Yes	Article 267 of the Constitution "1. It shall be the sacred duty and the honour of all Mozambican citizens to participate in the defence of independence, of sovereignty and of territorial integrity. 2. Military service shall be rendered in terms of the law within units of the 3. The law shall establish a civic service to substitute or complement military service for all citizens who are not subject to military duties.4. Exemptions from military service shall be established by law.Mozambique Armed Defence Forces."	E/CN.4/2000/55 & http://www.cpti.ws/cpti_docs/brett/recruitment_and_co_A4.pdf http://confinder.richmond.edu/admin/docs/Constitution_(in_force_21_01_05)(English)-Mozlegal.pdf	Yes	Article 54 (5) of the Constitution "The right to conscientious objection shall be guaranteed in terms of the law."; Article 80 of the Constitution "All citizens shall have the right not to comply with orders that are unlawful or that infringe on their rights, freedoms and guarantees. Article 267 of the Constitution "3. The law shall establish a civic service to substitute or complement military service for all citizens who are not subject to military duties.4. Exemptions from military service shall be established by law. Mozambique Armed Defence Forces."	http://confinder.richmond.edu/admin/docs/Constitution_(in_force_21_01_05)(English)-Mozlegal.pdf http://confinder.richmond.edu/admin/docs/Constitution_(in_force_21_01_05)(English)-Mozlegal.pdf
120	Namibia	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/namibia.htm
121	Nauru	No	No armed forces	http://www.photius.com/wfb2000/countries/nauru/nauru_military.html http://www.countryfacts.com/nauru/military/	No		http://www.photius.com/wfb2000/countries/nauru/nauru_military.html ; http://www.countryfacts.com/nauru/military/
122	Nepal	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/nepal.ht

123	Netherlands	No	Suspended; Article 98 of the Constitution "(1) To protect its interests, the State shall maintain Armed Forces consisting of volunteers and conscripts.(2) The Government shall have supreme authority over the armed forces.(3) Compulsory service in the armed forces shall be regulated by Act of Parliament. The obligations which may be imposed on persons not belonging to the armed forces in relation to the defence of the country shall also be regulated by Act of Parliament.	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005 http://www.servat.unibe.ch/icl/nl00000_.html	Yes	1962 Law on Conscientious Objection. Article 99 Constitution	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
124	New Zealand	No		E/CN.4/2000/55	Yes	1912 Defence Amendment Act	http://www.cpti.ws/cpti_docs/brett/recruitment_and_co_A4.pdf
125	Nicaragua	No		E/CN.4/2000/55 & http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CPTI_Nicaragua.doc	No		http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CPTI_Nicaragua.doc
126	Niger	Yes	Article 28 of the Constitution "Le service militaire est obligatoire. Les conditions de son accomplissement sont déterminées par la loi." Selective conscription	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/niger.htm
127	Nigeria	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/nigeria.htm
128	Norway	Yes	Article 109 Constitution, 1953 General Compulsory Service Act (29/1953)	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	1965 Law on Exemption of Military Service for Reasons of Personal Conviction	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005

129	Oman	No	Article 37 of the Constitution "Defence of the homeland is a sacred duty, and rendering service in the Armed Forces is an honour for citizens regulated by the Law." http://servat.unibe.ch/icl/mu00000_.html	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	No		http://www.wri-irg.org/co/rtba/oman.htm
130	Pakistan	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/pakistan.htm
131	Palau	No	No armed forces	http://www.nationsencyclopedia.com/Asia-and-Oceania/Palau.html	N/A		http://www.nationsencyclopedia.com/Asia-and-Oceania/Palau.html
132	Panama	No		E/CN.4/2000/55 & http://www.nationsencyclopedia.com/Americas/Panama.html	No		http://www.wri-irg.org/co/rtba/panama.htm
133	Papua New Guinea	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/papuanewguinea.htm
134	Paraguay	Yes	Article 129 (1) of the Constitution "1) Every Paraguayan must be prepared for and must complete his services for the armed defense of the Fatherland.2) To this end, mandatory military service is hereby established. A law will regulate the conditions under which this duty will be discharged." "	E/CN.4/2000/55	Yes	"Article 37 of the Constitution The right to conscientious objection for ethical or religious reasons is hereby recognized for those cases in which this Constitution and the law permit it. Article 129 (5) "(5) Those who declare conscientious objection will provide services to benefit the civilian population, in aid centers designated by law and operated under civilian jurisdiction. The law implementing the right to conscientious objection will be neither punitive nor impose burdens heavier than those imposed by military service."	http://www.servat.unibe.ch/icl/pa00000_.html

135	Peru	Yes	"The 1979 Political Constitution, amended in 1993, states in art. 270 that "National defence is permanent and integral. Every natural or legal person is obliged to participate in it, in accordance with the law." Military service is prescribed by the 8 November 1983 Law on Compulsory Military Service (D.L. 264) and the 16 November 1984 Regulation on Military Service (Supreme Decree 072-84-PCM). "	E/CN.4/2000/55 http://www.wri-irg.org/co/rtba/peru.htm	No		http://www.wri-irg.org/co/rtba/peru.htm
136	Philippines	Yes	Article 2 Section 4 "Section 4. The prime duty of the Government is to serve and protect the people. The Government may call upon the people to defend the State and, in the fulfillment thereof, all citizens may be required, under conditions provided by law, to render personal, military or civil service." and General provisions of the Constitution "Section 4. The Armed Forces of the Philippines shall be composed of a citizen armed force which shall undergo military training and serve, as may be provided by law. It shall keep a regular force necessary for the security of the State."	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/philippines.htm
137	Poland	Yes	Article 85 of the 1997 Constitution, 1999 Law on Obligation to Defend the Republic of Poland.	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Article 85 Constitution, Law on Alternative Service and 1999 Law on Obligation to Defend the Republic of Poland	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
138	Portugal	No	Abolished	http://www.quaker.org/	Yes	Law 7/1992 but now not applicable	http://www.quaker.org/

				g/qcea/coreport/coreport.pdf compiled until 2005		to professional soldiers. Article 13; See also, Article 41 (6) of the Constitution, "The right to be a conscientious objector is safeguarded in accordance with the law."	qcea/coreport/coreport.pdf compiled until 2005
139	Qatar	No	Article 53 of the Constitution "Defending the country is a duty of every citizen."	E/CN.4/2000/55 http://www.servat.unibe.ch/icl/qa00000_.html	No		http://www.wri-irg.org/co/rtba/qatar.htm
140	Republic of Korea (South)	Yes	Article 39 "1) All citizens have the duty of national defense under the conditions as prescribed by law." "	E/CN.4/2000/55 http://www.servat.unibe.ch/icl/ks00000_.html	No	"The Committee is concerned that: (a) under the Military Service Act of 2003 the penalty for refusal of active military service is imprisonment for a maximum of three years and that there is no legislative limit on the number of times they may be recalled and subjected to fresh penalties; (b) those who have not satisfied military service requirements are excluded from employment in government or public organisations and that (c) convicted conscientious objectors bear the stigma of a criminal record (art.18). "	KOREA, CCPR/C/KOR/CO/3, 28 November 2006, paragraph 17; See also Mr. Yeo-Bum Yoon and Mr. Myung-Jin Choi v Republic of Korea, CCPR/C/88/D/1321-1322/2004, 23 January 2007, paragraph 8.4. KOREA, CCPR/C/KOR/CO/3, 28 November 2006, paragraph 17
141	Romania	Yes	Article 53 Constitution "(1) Citizens have the right and duty to defend Romania. (2) The military service is compulsory for all Romanian male citizens aged twenty, except for the cases provided by law. (3) To be trained in the active military service, citizens may be conscripted up to	E/CN.4/2000/55; http://www.quaker.org/g/qcea/coreport/coreport.pdf compiled until 2005 http://www.servat.unibe.ch/icl/ro00000_.html ;	Yes	"1996 Law on the Preparation of eh Population for Defence (46/1996), 1997 Decree "As regards the way of execution of he alternative service law according to the provision of Article 4 from Law 46/1996 (618/1997)"	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005

			the age of thirty-five."				
142	Russian Federation	Yes	Article 59 of the 1993 Constitution, 1998 Law on Conscription Obligation and Military Service	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Article 59 (3) of the 1993 Constitution, 2002 Federal Bill on Alternative Civilian Service.	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
143	Rwanda	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/rwanda.htm
144	Saint Kitts and Nevis	No	No armed forces	http://www.nationsencyclopedia.com/Americas/St-Kitts-and-Nevis.html	No		
145	Saint Lucia	No	No armed forces	http://www.nationsencyclopedia.com/Americas/St-Lucia.html	No		
146	Saint Vincent and the Grenadines	No	No armed forces	http://www.nationsencyclopedia.com/Americas/St-Vincent-and-the-Grenadines.html	No		
147	Samoa	No	No armed forces	http://www.nationsencyclopedia.com/Asia-and-Oceania/Samoa.html	No		
148	San Marino	No	Conscription during war time only	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	N/A		http://www.wri-irg.org/co/rtba/sanmarino.htm
149	Sao Tome and Principe	Yes	Article 64 (2) of the Constitution "Todo o cidadão tem o dever de prestar serviço militar, nos termos da lei.."http://www.parlamento.st/	http://www.parlamento.st/	No	Article 23 (2) of the constitution "Ninguém pode ser perseguido, privado de direitos ou isento de obrigações ou deveres cívicos por causa das suas convicções ou prática religiosa...."	http://www.parlamento.st/
150	Saudi Arabia	No	Article 34 of the Constitution "The defence of the Islamic religion,	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/saudiara

			society, and country is a duty for each citizen. The regime establishes the provisions of military service."	http://www.servat.unibe.ch/icl/sa00000_.html			http://www.wri-irg.org/co/rtba/senegal.htm
151	Senegal	Yes	Not enforced (1)	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/senegal.htm
152	Serbia	Yes	Article 57 of the 2003 Constitution, 1993 Defence Law	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	"Article 58 of the 2003 Constitution, Regulation on Civilian Service (37/2003)"; "Article 45 of the Constitution " No person shall be obliged to perform military or any other service involving the use of weapons if this opposes his religion or beliefs. Any person pleading conscientious objection may be called upon to fulfill military duty without the obligation to carry weapons, in accordance with the law."	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005 http://www.parlament.sr.gov.yu/content/eng/akta/ustav/ustav_2.asp
153	Seychelles	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/seychelles.htm
154	Sierra Leone	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/sierraleone.htm
155	Singapore	Yes		E/CN.4/2000/55	No		E/CN.4/2000/55 & http://www.wri-irg.org/co/rtba/singapore.htm
156	Slovakia	Yes	Article 15 of the 1992 Constitution, Law 331/1992	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Article 25 of the 1992 Constitution, 1995 Civilian Service Act (207/1995)	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
157	Slovenia	Yes	Article 123 of the Constitution "	http://www.servat.unibe.ch/icl/sa00000_.html	Yes	No sure still applicable to	E/CN.4/2000/55 &

			(1) Participation in the national defence is compulsory for citizens within the limits and in the manner provided by law...."	be.ch/icl/si00000_.html		professional soldiers (2); Article 46 of the Constitution "Conscientious objection shall be permissible in cases provided by law where this does not limit the rights and freedoms of others." "Article 123 of the Constitution of Slovenia (1) "Any citizen who, because of his religious, philosophical or humanitarian belief, is not willing to perform military duty, shall be given the opportunity of participating in the Defence of the State in some other manner" Law on Military Duty (Par V, arts. 38-48) and Law Military Duty (arts 17-22)"	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005 http://www.servat.unibe.ch/icl/si00000_.html ;
158	Solomon Islands	No	No armed forces	http://www.nationsencyclopedia.com/Asia-and-Oceania/Solomon-Islands.html	N/A		
159	Somalia	Yes	Not enforced	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/somalia.htm
160	South Africa	No		E/CN.4/2000/55	Yes	"The amended 1957 Defence Act contains a provision for conscientious objection in Section 72, A-I. But apparently this provision does not apply to those who have joined the SANDF on a voluntary basis"	http://www.wri-irg.org/co/rtba/southafrica.htm
161	Spain	No	Article 30 of the Constitution "1) Citizens have the right and the duty to defend Spain. (2) The law shall determine the military obligations of Spaniards and shall regulate,	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Constitution, Law on Conscientious Objection (Law 8 and 48/1984) No provisions for professional soldiers.	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005 & http://www.wri-irg.org/co/rtba/spain.htm

			with all due guarantees, conscientious objection as well as other causes for exemption from compulsory military service, and it may, when appropriate, impose a substitute social service.	http://www.servat.unibe.ch/icl/sp00000_.html			m
162	Sri Lanka	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/srilanka.htm
163	Sudan	Yes	Article 35 (1) (b) of the Constitution "Every citizen has the duty"	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/sudan.htm
164	Suriname	No	Article 180 of the Constitution "(2) The protection of the State is a fundamental duty of every citizen. (3) Military service is obligatory for a certain period, under conditions to be regulated by law. (4) Civil service is obligatory under conditions to be regulated by law, as a substitute or complement to military service..."	E/CN.4/2000/55 http://pdba.georgetown.edu/Constitutions/Suriname/english.html .	Yes	Article 180 of the Constitution "(5) Persons who are found to be unsuited for military service of conscientious objectors can, under conditions to be laid down by law, perform unarmed military or civil service fitting for their situation....."	http://www.wri-irg.org/co/rtba/suriname.htm http://pdba.georgetown.edu/Constitutions/Suriname/english.html .
165	Swaziland	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/swaziland.htm
166	Sweden	Yes	Total Defence Service Act (1994).	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Total Defence Service Act (1994).	E/CN.4/2000/55 & http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
167	Switzerland	Yes	"Article 59 of the 1999 Constitution, 1995 Federal Law on the Armed Forces and Military Administration (LAAM) and the 1995 Ordinance on Recruitments of Conscripts (OREC)"	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Article 59 of the 1999 Constitution, 1996 Law on Civilian Service	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
168	Syrian Arab	Yes	Article 40 of the Constitution "(1)	E/CN.4/2000/55	No		<a 814="" 857="" 906="" 928"="" data-label="Page-Footer" href="http://www.wri-</td></tr> </table> </div> <div data-bbox="> <p>000</p>

	Republic		All citizens have the sacred duty to defend the homeland's security, to respect its Constitution and socialist unionist system. (2) Military service is compulsory and regulated by law.				http://www.wri-irg.org/co/rtba/syria.htm
169	Tajikistan	Yes	Article 43 of the Constitution "Defense of the homeland, protection of the interests of the state, and strengthening the state's independence, security, and defense forces are the sacred duty of the citizen. The procedures for completing military service are determined by law."	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/tajikistan.htm
170	Taiwan	Yes	Article 20 of the Constitution "The people shall have the duty to render military service in accordance with law."	http://www.servat.unibe.ch/icl/tw00000_.html	Yes	Alternative Service Law 15/01/2000	http://www.cpti.ws/cpti_docs/brett/recruitment_and_co_A4.pdf
171	Thailand	No	Article 69 of the Constitution "Every person shall have a duty to defend the country, serve in armed forces, pay taxes and duties, render assistance to the official service, receive education and training, protect and pass on to conserve and the national arts and culture and local knowledge and conserve natural resources and the environment, as provided by law"	E/CN.4/2000/55 http://servat.unibe.ch/icl/th00000_.html	No		http://www.wri-irg.org/co/rtba/thailand.htm
172	Timor-Leste	No		http://www.crisisgroup.org/home/index.cfm?id=5264	Yes	Article 45 of the Constitution "3. The right to be a conscientious objector shall be guaranteed in accordance with the law.	http://www.etan.org/etanpdf/pdf2/constfnen.pdf
173	Togo	Yes	Selective conscription. Article 43 of the Constitution "La Defense de la patrie et de l'intégrité du	E/CN.4/2000/55 http://www.assemblee-	No		http://www.wri-irg.org/co/rtba/togo.htm

			territoire national est un devoir sacré de tout citoyen.”	nationale.tg/charpente/textfonda/constitution.pdf			
174	Tonga	No		E/CN.4/2000/55	N/A		
175	Trinidad and Tobago	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/trinidad.htm
176	Tunisia	Yes	Article 15 of the Constitution "The defense of the country and the integrity of its territory is a sacred duty of every citizen."	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/trinidad.htm
177	Turkey	Yes	“Article 72 of the Constitution, Law on Military Service (1111/1982) and Law for Reserve Officers and Reserve Military Servants (1076)”	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	No		http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
178	Turkmenistan	Yes	Article 38 of the Constitution "Everybody has the sacred duty of helping to defend Turkmenistan. Universal military duty is established for men, citizens of Turkmenistan"	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/turkmenistan.htm
179	Tuvalu	No	No armed forces	http://www.nationsencyclopedia.com/Asia-and-Oceania/Tuvalu.html		Article 23 (7) of the Constitution " Nothing in or done under a law shall be considered to be inconsistent with this section to the extent that the law makes reasonable provision- (a) requiring a person who proves that he has a conscientious objection to performing some reasonable and normal traditional, communal or civic obligation, or to performing it at a particular time or in a particular way, to perform instead, some reasonably equivalent service of benefit to the community; or (b)	http://www.tuvaluinfo.com/const_tuvalu.htm

						for the exclusion of such a person and his household from any benefit arising out of the performance of those obligations by others until the equivalent service has been performed."	
180	Uganda	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/uganda.htm
181	Ukraine	Yes	Article 65 of the 1996 Constitution, 1999 Law on Military Duty and Military Service	E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Article 35.3 of the 1996 Constitution, 1999 Law on Alternative Civilian Service; "Article 35 of the Constitution "In the event that the performance of military duty is contrary to the religious beliefs of a citizen, the performance of th is duty shall be replaced by alternative (non-military) service."	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005 http://www.rada.gov.ua/const/conengl.htm#r2
182	United Arab Emirates	No		E/CN.4/2000/55			
183	United Kingdom of Great Britain and Northern Ireland	No		E/CN.4/2000/55; http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005	Yes	Instruction No. 6 (D/DM(A)7/5/3(M1(A))) 'Retirement of discharge on the grounds of conscience.'	http://www.quaker.org/qcea/coreport/coreport.pdf compiled until 2005
184	United Republic of Tanzania	Yes	Article 28 (1) of the Constitution "Every citizen has the duty to protect, preserve and maintain the independence, sovereignty, territory and unity of the nation.(2) Parliament may enact appropriate laws to enable the people to serve in the Forces and in the defence of the nation..."	E/CN.4/2000/55 http://www.chr.up.ac.za/hr_docs/constitutions/docs/TanzaniaC.pdf	No		http://www.wri-irg.org/co/rtba/tanzania.htm
185	United States of America	No	"The United States does not currently have a draft. All young	E/CN.4/2000/55; http://www.quaker.org	Yes	Military Selective Service Act and the Implementing Selective	E/CN.4/2000/55

			men turning 18 must register with the Selective Service System. During times of war in the past, the United States has drafted citizens into service. The last induction authority expired in 1973. No belief is legal justification for failure to register with the Selective Service System. “	g/qcea/coreport/coreport.pdf compiled until 2005		Service System Regulations.	
186	Uruguay	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/uruguay.htm
187	Uzbekistan	Yes	Article 52 of the Constitution "Defense of the Republic of Uzbekistan is the duty of every citizen of the Republic of Uzbekistan. Citizens will be obliged to perform military or alternative service in accordance with the procedure prescribed by law."	E/CN.4/2000/55 http://www.umd.uz/Main/Uzbekistan/Constitution/constitution.html#Part%20Five	Yes	Law on Military Duty and Military Service, 2002 (12 Dec); Article 52 of the Constitution "Defense of the Republic of Uzbekistan is the duty of every citizen of the Republic of Uzbekistan. Citizens will be obliged to perform military or alternative service in accordance with the procedure prescribed by law."	http://www.cpti.ws/cpti_docs/brett/recruitment_and_co_A4.pdf http://www.umd.uz/Main/Uzbekistan/Constitution/constitution.html#Part%20Five
188	Vanuatu	No		E/CN.4/2000/55			
189	Vatican (Holy See)	No					
190	Venezuela	Yes		E/CN.4/2000/55	No	“Article 61: All persons have the right to freedom of conscience, and to express the same except those practices affecting personality or constituting criminal offense. Objections of conscience may not be invoked in order to evade compliance with law or prevent others from complying with law or exercising their rights.”	http://www.wri-irg.org/co/rtba/venezuela.htm http://en.wikisource.org/wiki/Constitution_of_Venezuela
191	Viet Nam	Yes	Article 77 of the Constitution "To defend the homeland is a sacred	E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/vietnam

			duty and noble right of Vietnamese citizens. Citizens are duty-bound to do military service and take part in building a national defence of the whole people."	http://www.vietnamlaws.com/freelaws/Constitution92(aa01).pdf			htm
192	Yemen	Yes			No		http://www.wri-irg.org/co/rtba/yemen.htm
193	Zambia	No		E/CN.4/2000/55	No		http://www.wri-irg.org/co/rtba/zambia.htm
194	Zimbabwe	No		E/CN.4/2000/55	Yes	1979 National Service Act, http://www.wri-irg.org/co/rtba/zimbabwe.htm	http://www.wri-irg.org/co/rtba/zimbabwe.htm

5.7 Annex D: Detailed Status in Regard to Conscription and Conscientious Objections.

Countries without conscription or no army.

	Country	MUN	ICCPR/(Ratification, Accession, Succession)	Optional Protocol	Conscription	CO
1.	Andora	28/07/93	22/09/06	22/09/06	No	N/A
2.	Antigua and Barbuda	11/11/81			No	N/A
3.	Argentina	24/10/45	8/8/96	8/8/86	No	Yes
4.	Australia	1/11/45	13/08/80	25/09/91	No	Yes
5.	Bahamas	18/09/73			No	No
6.	Bahrain	21/09/71	20/09/06		No	No
7.	Bangladesh	17/09/74	6/9/00		No	No
8.	Barbados	9/12/66	5/1/73	5/1/73	No	Yes
9.	Belgium	27/12/45	21/04/83	17/05/94	No	Yes
10.	Belize	25/09/81	10/6/96		No	No
11.	Bhutan	21/09/71			No	No
12.	Bosnia and Herzegovina	22/05/92	1/9/93	1/3/95	No	Yes
13.	Botswana	17/10/66	8/9/00		No	No
14.	Brunei	21/09/84			No	No

	Darussalam					
15.	Burkina Faso	20/09/60	4/1/99		No	No
16.	Burundi	18/09/62	9/5/90		No	No
17.	Cameroon	20/09/60	27/06/84	27/06/84	No	No
18.	Canada	9/11/45	19/05/76	19/05/76	No	Yes
19.	Comores	12/11/75			No	N/K
20.	Congo	20/09/60	5/10/83	5/10/83	No	No
21.	Costa Rica	2/11/45	29/11/68	29/11/68	No	N/A
22.	Czech Republic	19/01/93	22/02/93	11/2/93	No	Yes
23.	Djibouti	20/09/77	5/11/02	5/11/02	No	No
24.	Dominica	18/12/78	17/06/93		No	No
25.	Ethiopia	13/11/45	11/6/93		No	No
26.	Fiji	13/10/70			No	No
27.	France	24/10/45	4/11/80	17/02/84	No	Yes
28.	Gambia	21/09/65	22/03/79	9/6/88	No	No
29.	Ghana	8/3/57	7/9/00	7/9/00	No	No
30.	Grenada	17/09/74	6/9/91		No	No
31.	Guatemala	21/11/45	5/5/92	28/11/00	No	No
32.	Guyana	20/09/66	15/02/77	10/5/93	No	Yes
33.	Haiti	24/10/45	6/2/91		No	No
34.	Honduras	17/12/45	25/08/97	7/6/05	No	No
35.	Hungary	14/12/55	17/01/74	7/9/88	No	Yes
36.	Iceland	19/11/46	22/08/79	22/08/79	No	N/A
37.	India	30/10/45	10/4/79		No	No

38.	Ireland	14/12/55	8/12/89	8/12/89	No	Yes
39.	Italy	14/12/55	15/09/78	15/09/78	No	Yes
40.	Jamaica	18/09/62	3/10/75	3/10/75	No	No
41.	Japan	18/12/56	21/06/79		No	No
42.	Kenya	16/12/63	1/5/72		No	No
43.	Kiribati	14/09/99			No armed forces	N/A
44.	Lesotho	17/10/66	9/9/92	6/9/00	No	No
45.	Liberia	2/11/45	22/09/04		No	No
46.	Liechtenstein	18/09/90	10/12/98	10/12/98	No	N/A
47.	Luxembourg	24/10/45	18/08/83	18/08/83	No	No
48.	Malawi	1/12/64	22/12/93	11/6/96	No	No
49.	Malaysia	17/09/57			No	No
50.	Maldives	21/09/65	19/09/06	19/09/06	No	
51.	Malta	1/12/64	12/9/90	13/09/90	No	No
52.	Marshall Islands	17/09/91			No armed forces	Yes
53.	Mauritius	24/04/68	12/12/73	12/12/73	No	No
54.	Micronesia, Federated State of	17/09/91			No	N/A
55.	Monaco	28/05/93	28/08/97		No	N/A
56.	Montenegro	28/06/06	23/10/06	23/10/06	No	Yes
57.	Namibia	23/04/90	28/11/94	28/11/94	No	No
58.	Nauru	14/09/99			No	No
59.	Nepal	14/12/55	14/05/91	14/05/91	No	No

60.	Netherlands	10/12/45	11/12/78	11/12/78	No	Yes
61.	New Zealand	24/10/45	28/12/78	26/05/89	No	Yes
62.	Nicaragua	24/10/45	12/3/80	12/3/80	No	No
63.	Nigeria	7/10/60	29/07/93		No	No
64.	Oman	7/10/71			No	No
65.	Pakistan	30/09/47			No	No
66.	Palau	15/12/94			No	N/A
67.	Panama	13/11/45	8/3/77	8/3/77	No	No
68.	Papua New Guinea	10/10/75			No	No
69.	Portugal	14/12/55	15/06/78	3/5/83	No	Yes
70.	Qatar	21/09/71			No	No
71.	Rwanda	11/9/62	16/04/75		No	No
72.	Saint Kitts and Nevis	23/09/83			No armed forces	No
73.	Sait Lucia	18/09/79			No armed forces	No
74.	Saint Vincent and the Grenaldines	16/09/80	9/11/81	9/11/81	No	No
75.	Samoa	15/12/76	15/02/08		No armed forces	No
76.	San Marino	2/3/92	18/10/85	18/10/85	No armed forces	N/A
77.	Saudi Arabia	24/10/45			No	No
78.	Seychelles	21/09/76	5/5/92	5/5/92	No	No
79.	Sierra Leone	27/09/61	23/08/96	23/08/96	No	No

80.	Solomon Islands	19/09/78			No armed forces	N/A
81.	South Africa	7/11/45	10/12/98	28/08/02	No	Yes
82.	Spain	14/12/55	27/04/77	25/05/85	No	Yes
83.	Sri Lanka	14/12/55	11/6/80	3/10/97	No	No
84.	Suriname	4/12/75	28/12/76	28/12/76	No	Yes
85.	Swaziland	24/09/68	26/03/04		No	No
86.	Thailand	16/12/46	29/10/96		No	No
87.	Timor-Leste	27/09/02	18/09/03		No	Yes
88.	Tonga	14/09/99			No	N/A
89.	Trinidad and Tobago	18/09/62	21/12/78	14/11/90	No	No
90.	Tuvalu	5/9/00			No armed forces	
91.	Uganda	25/10/62	21/06/95	14/11/95	No	No
92.	United Arab Emirates	9/12/71			No	
93.	United Kingdom of Great Britain and Northern Ireland	24/10/45	20/05/76		No	Yes
94.	United States of America	24/10/45	8/6/92		No	Yes
95.	Uruguay	18/12/45	1/4/70	1/4/70	No	No
96.	Vanuatu	15/09/81			No	
97.	Vatican (Holy				No	

	See)					
98.	Zambia	1/12/64	10/4/84	10/4/84	No	No
99.	Zimbabwe	25/08/80	13/05/91		No	Yes

- See annex C for sources

Countries where conscription is enforced and where Conscientious Objection is recognized.

	Country	MUN	ICCPR/(Ratification, Accession, Succession)	Optional Protocol	Conscription	CO
1.	Albania	14/12/55	4/10/91	4/10/07	Yes	Yes
2.	Armenia	2/3/92	23/06/93	23/06/93	Yes	Yes
3.	Austria	14/12/55	10/9/78	10/12/87	Yes	Yes
4.	Azerbaijan	2/3/92	13/08/92	27/11/01	Yes	Yes
5.	Belarus	24/10/45	12/11/73	30/09/92	Yes	Yes
6.	Brazil	24/10/45	24/01/92		Yes	Yes
7.	Bulgaria	14/12/55	21/09/70	26/03/92	Yes	Yes
8.	Cape Verde	16/09/75	6/8/93	19/05/00	Yes	Yes
9.	Croatia	22/05/92	12/10/92	12/10/95	Yes	Yes
10.	Cuba	24/10/45			Yes	Yes
11.	Cyprus	20/09/60	2/4/69	15/04/92	Yes	Yes
12.	Denmark	24/10/45	6/1/72	6/1/72	Yes	Yes
13.	Ecuador	21/12/45	6/3/69	6/3/69	Yes	Yes
14.	Estonia	17/09/91	21/10/91	21/10/91	Yes	Yes
15.	Finland	14/12/55	19/08/75	19/08/75	Yes	Yes
16.	Georgia	31/12/92	3/5/94	3/5/94	Yes	Yes
17.	Germany	18/09/73	17/12/73	25/08/93	Yes	Yes
18.	Greece	25/10/45	5/5/97	5/5/97	Yes	Yes
19.	Israel	11/5/49	3/10/91		Yes	Yes

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20.	Kyrgyzstan	2/3/92	7/10/94	7/10/94	Yes	Yes
21.	Latvia	17/09/91	14/04/92	22/06/94	Yes	Yes
22.	Lithuania	17/09/91	20/11/91	20/11/91	Yes	Yes
23.	Macedonia The Republic of	8/4/93	18/01/94	12/12/94	Yes	Yes
24.	Moldova	2/3/92	26/01/93	23/01/08	Yes	Yes
25.	Mongolia	27/10/61	18/11/74	16/04/91	Yes	Yes
2.	Mozambique	16/09/75	21/07/93		Yes	Yes
27.	Norway	27/11/45	13/09/72	13/09/72	Yes	Yes
28.	Paraguay	24/10/45	10/6/92	10/1/95	Yes	Yes
29.	Poland	24/10/45	18/03/77	7/11/91	Yes	Yes
30.	Romania	14/12/55	9/12/74	20/07/93	Yes	Yes
31.	Russian Federation	24/10/45	16/10/73	1/10/91	Yes	Yes
32.	Serbia	1/11/00	12/3/01	6/9/01	Yes	Yes
33.	Slovakia	19/01/93	28/05/93	28/05/93	Yes	Yes
34.	Slovenia	22/05/92	6/7/92	16/07/93	Yes	Yes
35.	Sweden	19/11/46	6/12/71	6/12/71	Yes	Yes
36.	Switzerland	10/9/02	18/06/92		Yes	Yes
37.	Taiwan				Yes	Yes
38.	Ukraine	24/10/45	12/11/73	25/07/91	Yes	Yes
39.	Uzbekistan	2/3/92	28/09/95	28/09/95	Yes	Yes

- (See annex C for sources)

Countries where conscription is enforced with no provision for conscientious objection or where the status is unknown.

	Country	MUN	ICCPR/(Ratification, Accession, Succession)	Optional Protocol	Conscription	CO
1.	Afghanistan	19/11/46	24/01/83		Yes	N/K
2.	Algeria	8/10/62	12/12/89	12/9/89	Yes	No
3.	Angola	1/12/76	10/1/92	10/1/92	Yes	No
4.	Benin	20/09/60	12/3/92	12/3/92	Yes	No
5.	Bolivia	14/11/45	12/8/82	12/8/82	Yes	No
6.	Burma/Myanmar	19/04/48		4/1/99	Yes	No
7.	Cambodia	14/12/55	26/05/92		Yes	N/K
8.	Central African Rep.	20/09/60	8/5/81	8/5/81	Yes	No
9.	Chad	20/09/60	9/6/95	9/6/95	Yes	No
10.	Chile	24/10/45	10/2/72	27/05/92	Yes	No
11.	China	24/10/45			Yes	No
12.	Colombia	5/11/45	29/10/69	29/10/69	Yes	No
13.	Côte d'Ivoire	20/09/60	26/03/92	5/3/97	Yes	N/K
14.	Democratic Republic of the Congo	20/09/60	1/11/76	1/11/76	Yes	N/K
15.	Democratic Republic of Korea (North)	17/09/91	14/09/81		Yes	No
16.	Dominican Republic	24/10/45	4/1/78	4/1/78	Yes	N/K
17.	Egypt	24/10/45	14/01/82		Yes	No

18.	El Salvador	24/10/45	30/11/79	6/6/95	Yes	No
19.	Equatorial Guinea	12/11/68	25/09/87	25/09/87	Yes	No
20.	Eritrea	28/05/93	22/01/02		Yes	No
21.	Gabon	20/09/60	21/01/83		Yes	No
22.	Guinea	12/12/58	24/01/78	17/06/93	Yes	No
23.	Guinea-Bissau	17/09/74			Yes	No
24.	Indonesia	28/09/50	23/02/06		Yes	No
25.	Iran (Islamic Republic of).	24/10/45	24/06/75		Yes	No
26.	Iraq	21/12/45	25/01/71		Yes	No
27.	Jordan	14/12/55	28/5/75		Yes	No
28.	Kazakhstan	2/3/92	24/01/06		Yes	No
29.	Kuwait	14/05/63	21/05/96		Yes	No
30.	Lao People's Democratic Republic	14/12/55			Yes	No
31.	Lebanon	24/10/45	3/11/72		Yes	No
32.	Libyan Arab Jamahiriya	14/12/55	15/05/70	16/05/89	Yes	No
33.	Madagascar	20/09/60	21/06/71	21/06/71	Yes	No
34.	Mali	28/09/60	16/07/74	24/10/01	Yes	No
35.	Mauritania	27/10/61	17/11/04		Yes	No
36.	Mexico	7/11/45	23/03/81	15/03/02	Yes	No
37.	Morocco	12/11/56	3/5/79		Yes	No
38.	Niger	20/09/60	7/3/86	7/3/86	Yes	No

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39.	Peru	31/10/45	28/04/78	3/10/80	Yes	No
40.	Philippines	24/10/45	23/10/86	22/08/89	Yes	No
41.	Republic of Korea (South)	17/09/91	10/4/90	10/4/90	Yes	No
42.	Sao Tome and Principe	16/09/75			Yes	No
43.	Senegal	28/09/60	13/02/78	13/02/78	Yes	No
44.	Singapore	21/09/65			Yes	No
45.	Somalia	20/09/60	24/01/90	24/01/90	Yes	No
46.	Sudan	12/11/56	18/03/86		Yes	No
47.	Syrian Arab Republic	24/10/45	21/04/69		Yes	No
48.	Tajikistan	2/3/92	4/1/99	4/1/99	Yes	No
49.	Togo	20/09/60	24/05/84	30/03/88	Yes	No
50.	Tunisia	12/11/56	18/03/69		Yes	No
51.	Turkey	24/10/45	23/09/03	24/11/06	Yes	No
52.	Turkmenistan	2/3/92	1/5/97	1/5/97	Yes	No
53.	United Republic of Tanzania	14/12/61	11/6/76		Yes	No
54.	Venezuela	15/11/45	10/5/78	10/5/78	Yes	No
55.	Viet Nam	20/09/77	24/09/82		Yes	No
56.	Yemen	30/09/47	9/2/87		Yes	No

* (See annex C for sources)

5.8 Annex E: Member States of the Council of Europe, the European Union, the OSCE and the OAS.

Member States of the Council of Europe

Albania	Estonia	Lithuania	Russian Federation
Andorra	Finland	Luxembourg	San Marino
Armenia	France	Macedonia The Republic of	Serbia
Austria	Georgia	Malta	Slovakia
Azerbaijan	Germany	Moldova	Slovenia
Belarus	Greece	Monaco	Spain
Belgium	Hungary	Montenegro	Sweden
Bosnia and Herzegovina	Iceland	Netherlands	Switzerland
Bulgaria	Ireland	Norway	Turkey
Croatia	Italy	Poland	Ukraine
Cyprus	Latvia	Portugal	United Kingdom of Great Britain and Northern Ireland
Denmark	Liechtenstein	Romania	

Member States of the European Union

Austria	Finland	Latvia	Romania
Belgium	France	Lithuania	Slovakia
Bulgaria	Germany	Luxembourg	Slovenia
Cyprus	Greece	Malta	Spain
Czech Republic	Hungary	Netherlands	Sweden
Denmark	Ireland	Poland	United Kingdom of Great Britain and Northern Ireland
Estonia	Italy	Portugal	

State Participants to the Organization of Security and Cooperation in Europe

Albania	Finland	Macedonia The Republic of	Spain
Andora	France	Malta	Sweden
Armenia	Georgia	Moldova	Switzerland
Austria	Germany	Monaco	Tajikistan
Azerbaijan	Greece	Montenegro	Turkey
Belarus	Hungary	Netherlands	Turkmenistan
Belgium	Iceland	Norway	Ukraine
Bosnia and Herzegovina	Ireland	Poland	United Kingdom of Great Britain and

			Northern Ireland
Bulgaria	Italy	Portugal	United States of America
Canada	Kazakhstan	Romania	Uzbekistan
Croatia	Kyrgyzstan	Russian Federation	Vatican (Holy See)
Cyprus	Latvia	San Marino	
Czech Republic	Liechtenstein	Serbia	
Denmark	Lithuania	Slovakia	
Estonia	Luxembourg	Slovenia	

Members of the Organization of American States

Antigua and Barbuda	Costa Rica	Honduras	Saint Vincent and the Grenaldines
Argentina	Cuba	Jamaica	Suriname
Bahamas	Dominica	Mexico	Trinidad and Tobago
Barbados	Dominican Republic	Nicaragua	United States of America
Belize	Ecuador	Panama	Uruguay
Bolivia	El Salvador	Paraguay	Venezuela
Brazil	Grenada	Peru	
Canada	Guatemala	Saint Kitts and Nevis	
Chile	Guyana	Sait Lucia	
Colombia	Haiti		